

GAHC010261892023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/3936/2023

AFJAL ALI
S/O ABBES ALI @ SABBES ALI
R/O VIL- RUBHI BALIKURI
GAON P.O. BALIKURI, BARPETA,
ASSAM, PIN-781319

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. J AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.12.2023

Heard Mr. J. Ahmed, learned counsel for the applicant and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 438 Cr.P.C. is preferred by accused, namely, Afjal Ali, who has been apprehending arrest, in connection with Kalgachia P.S. Case No.166/2023 (GR No. 1661/2023), under Section 120(B)/448/365/354/324/511 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Abdul Karim on 09.11.2023. The essence of allegation made in the FIR is that one Afjal Ali (the present petitioner), Sahjahan Ali, Amidhar Saikia and Jogeshwar Talukder on 08.11.2023, at 6.30 pm, attempted to kidnap the wife of the informant, but, somehow she managed to escape.
4. Mr. Ahmed submits that the victim woman is the own sister-in-law of the present applicant and that there was dispute between the informant and the wife of the applicant in respect of distribution of land, and that the applicant is ready to co-operate with the investigating authority and therefore, Mr. Ahmed prayed to allow the application.
5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the victim woman has implicated the present petitioner with the alleged offence and therefore, Mr. Borthakur has opposed the petition.
6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Borthakur, learned Additional P.P.
7. Perusal of case diary indicates that the I.O. has achieved sufficient progress of the investigation of the case and in view of above, and also in view of the submissions of learned Advocates of both sides, custodial interrogation of the applicant seems to be not warranted here in this case. And therefore, this Court is inclined to grant the privilege of pre-arrest bail to the applicant. Accordingly, it is provided that in the event of arrest of the applicant, namely, Afjal Ali, in connection with Kalgachia P.S. Case No.166/2023 (GR No. 1661/2023), under Section 120(B) /448 /365 /354/324/511 IPC he shall be released on pre-arrest bail on his executing a bond of ` 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-
 - i. The applicant shall make himself available for interrogation by the Investigating Officer as and when required;

- ii. The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- iii. The applicant shall not leave the jurisdiction of the learned C.J.M., Barpeta, without prior permission.

8. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

JUDGE

Comparing Assistant