

GAHC010262042022



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

**Case No. : AB/3751/2022**

ABDUL ALI  
S/O KADAM ALI  
VILL- FAKIRAGRAM, PAKRITAL  
P.S. FAKIRAGRAM  
DIST. KOKRAJHAR, BTAD, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. S RANA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 17-01-2023**

Heard Mr. S. Rana, learned counsel for the petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure,

1973 [CrPC], the petitioner viz. Abdul Ali has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Bharalumukh Police Station Case no. 341/2022, registered for offences punishable under Sections 363/366/365, Indian Penal Code [IPC].

3. In the First Information Report [FIR], the informant, Babul Ali, has inter alia alleged that his minor daughter, aged about 16 years, had been kidnapped by the accused persons, named in the FIR, on 02.12.2022. One Monir and his parents along with other unknown persons have been arraigned as accused in the FIR. The informant has also made accusations that the accused persons had made demands for ransom with a threat that in the event of non-payment of the ransom amount of Rs. 10,00,000/- for release of his minor daughter, the victim girl would be raped and murdered.

4. Learned Additional Public Prosecutor has received the case diary.

5. In the case diary, the Birth Certificate of the allegedly kidnapped minor girl is available. As per the Birth Certificate, her date of birth is 27.10.2005. Evidently, on the date of the alleged kidnapping, the victim was a minor.

6. From the materials in the case diary, collected during the course of investigation carried out so far, it has emerged that the petitioner is the father of Monir, named as accused no. 1 in the FIR, who has been accused of kidnapping the minor girl. It has emerged that after being allegedly kidnapped, the accused no. 1 took her to his native village. Upon arrival of the accused no. 1 with the allegedly kidnapped minor girl, the petitioner had approached his co-villagers with the information that his son [accused no. 1] had come to the village with a girl and asked the co-villagers for an amicable solution to the

matter. It was at the insistence of the petitioner, a village meeting was called wherein the co-villagers discussed the matter of elopement of the minor girl with the son of the petitioner and it was suggested that the minor girl should be handed over to the police/her family. The materials in the case diary are not sufficient as regards the allegation of demand of ransom from the informant's family by the petitioner.

7. Having regard to the role attributed to the petitioner subsequent to the alleged kidnapping of the minor girl by his son i.e. accused no. 1, I am of the considered view that custodial interrogation of the petitioner for the purpose of carrying out further investigation of the case is not necessary and his release on pre-arrest bail, at this stage of investigation, is not unlikely to bring any adverse effect in the further investigation of the case, provided the petitioner extends his assistance and co-operation in the further investigation of the case.

8. Accordingly, it is provided that in the event of arrest of the petitioner in connection with Bharalumukh Police Station Case no. 341/2022, he shall be released on bail on furnishing a bail bond of Rs. 25,000/- with one local surety of the like amount to the satisfaction of the arresting authority, subject to the conditions that :

[i] the petitioner shall appear before the Investigating Officer [I.O.] of the case within 7 [seven] days from today and shall co-operate with the investigation and shall thereafter, make himself available for interrogation whenever required by the I.O. of the case;

[ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police

officer;

[iii] the petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

9. The bail application stands disposed of in the aforesaid terms.

**JUDGE**

**Comparing Assistant**