

GAHC010265422023



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

Case No. : AB/4004/2023

MD MAHRUM ALI @ BABU
S/O MAHAMMAD ALI
R/O VILL- BHOGPUR
P.S. GORESWAR
DIST. TAMULPUR, BTR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

22.12.2023

Heard Mr. A.K. Azad, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Md. Mahrum Ali @ Babu, who is apprehending his arrest in connection with Goreswar P.S. Case No.124/2023

under Sections 448/326/427/380/354/34 of the Indian Penal Code.

It is pertinent to mention here that this is for the second time that the petitioner is approaching this Court praying for his anticipatory bail. On the earlier occasion, his prayer for anticipatory bail was rejected by this Court by order dated 08.11.2023 passed by this Court in AB No.3028/2023.

Learned counsel for the petitioner has submitted that there are total 7(seven) accused persons named in the FIR, out of them, 5 (five) accused persons were granted anticipatory bail by this Court and the accused No.1 got arrested. However, after his arrest, he was also enlarged on bail by this Court by order dated 07.09.2023 passed in Bail Appln. No.3104/2023.

Learned counsel for the petitioner has submitted that the petitioner's new ground for approaching this Court for the second time seeking anticipatory bail is that the petitioner, in the meanwhile, has suffered from appendicitis and he has been referred to better treatment for appendicitis to Gauhati Medical College and Hospital. In support of the submission made by the learned counsel for the petitioner, the medical prescription issued to the petitioner has been annexed as "Annexure-3" along with this petition.

On the other hand, learned Additional Public Prosecutor, Assam has submitted that there are incriminating materials against the present petitioner. However, in the meanwhile, the investigation has progressed and it is pending as the present accused has not been apprehended.

Considering the fact that the main accused named in the FIR has been granted bail by a Co-ordinate Bench of this Court and also considering that as the petitioner is suffering from appendicitis which requires an urgent medical assistant and also considering the progress made in the investigation, the petitioner, namely, Md. Mahrum Ali @ Babu, is hereby directed to appear before

the Investigating Officer of Goreswar P.S. Case No.124/2023 within a period of 10(ten) days from the date of this order and to co-operate in the investigation.

If he does so within the stipulated period of time, in the event of his arrest in connection with Goreswar P.S. Case No.124/2023, the above named petitioner shall be allowed to go on bail of Rs.30,000/- with one surety of like amount, subject to the satisfaction of the arresting authority with the following conditions:

- (i) that the petitioner shall co-operate in the investigation;
- (ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

With the above observations, this anticipatory bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant