

GAHC010002292024



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

Case No. : AB/19/2024

ABU SAYED AHMED
S/O GYAS UDDIN AHMED
PERMANENT RESIDENT OF VILL- BARTHAL DOLOIGAON, P.S.
MOIRABARI, IN THE MORIGAON DISTRICT OF ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

29.01.2024

Heard Mr. S. Das, learned counsel appearing for the petitioner. Also heard Mr. K.K. Parasar, learned Addl. P.P., Assam appearing for the State respondent and Mr. A.A.R. Karim, learned counsel appearing for the informant.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioner, namely, **Abu Sayed Ahmed**, in connection with **Moirabari P.S. Case No. 242/2023** under Sections **294/427/506/326/307/379/34** of the Indian Penal Code, 1860.

3. The case diary as called for is placed before this Court. It may be mentioned that vide order dated 09.01.2024, this Court is granted the privilege of pre-arrest bail to the petitioner subject to the conditions.

4. Mr. S. Das, learned counsel for the petitioner submits that there was an altercation between the accused persons and the family members of the informant and during the course of the altercation both party sustained minor injuries. He further submits that the accused/petitioner is unnecessarily roped.

5. Mr. Parasar, learned Addl. P.P. on the other hand strongly opposes the prayer of pre-arrest bail. He submits on the basis of the case diary received that the petitioner appeared before the I/O and got his statement recorded under Section 161 Cr.P.C. He further submits that the statement of other eye-witnesses have also been recorded under Section 161 Cr.P.C. He further submits on the basis of the statement of eye-witnesses, that there are materials to implicate the present accused/petitioner. He further submits that the injury report indicates that the informant's brother has suffered grievous injury on his face and head caused by brick.

6. I have heard the submissions made at the Bar and I have considered the materials available on record.

7. It appears from the statements made by the eye-witnesses that the accused/petitioner with co-accused has destroyed the shop in question and he has inflicted and assaulted the informant's father. It further reveals from the

statements that the accused/petitioner along with a co-accused have folded the hands of the informant's brother while accused Rana Faruk Ahmed was inflicting grievous blow on the head of the informant's brother by a brick.

8. The aforesaid allegations and the nature of injury are grave. The investigation is in active stage. It is also submitted that the victim is undergoing medical treatment. A copy of a photograph of the informant's brother with the injuries sustained has also been placed before this Court from which it is evident that the informant's brother has been assaulted in a gruesome manner that too in the vital part of the body i.e. the face.

9. Considering the gravity of the offence and the nature of injury vis-à-vis Article 221 of the Constitution of India, this Court is not inclined to grant the privilege of pre-arrest to the accused/petitioner at this stage.

10. It is imperative that the investigation be completed. Accordingly, this anticipatory bail application stands rejected. Interim order dated 09.01.2024 shall stand vacated.

11. Return the case diary.

JUDGE

Comparing Assistant