

GAHC010010012024



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

**Case No. : AB/338/2024**

RAHUL SINGH THAPA  
S/O GOPAL SINGHA THAPA  
R/O NARIKALBASTI,  
AMSING JORABAT,  
P.S. SATGAON  
DIST.KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. B N DEKA**

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

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**Date : 01.03.2024**

- 1.** Heard Mr. T. Hussain, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Rahul Singh Thapa*, who is

apprehending his arrest in connection with Satgaon P.S. Case No. 71/2023 under Sections 341/326/384/307 of the Indian Penal Code.

**3.** The gist of accusation in this case is that on 26.04.2023, one Ratan Bahadur Bishwakarma had lodged an FIR before the Officer-in-Charge of Satgaon Police Station, *inter alia*, alleging that when the first informant was driving his car on 25.04.2023, he was stopped at Newar Basti at around 9.00 p.m. by the petitioner and was demanded money for buying alcohol and when the first informant refused to pay the money, he was assaulted by the present petitioner on his head with a sharp weapon. It is pertinent to mention herein that this is for the second time the present petitioner has approached this Court. His earlier anticipatory bail application i.e., AB No. 1974/2023 was rejected by order dated 20.07.2023 by this Court after perusal of the case diary on finding incriminating materials against the present petitioner.

**4.** Learned counsel for the petitioner has submitted that this present application has been filed by the petitioner for the second time on the ground that, in the meanwhile, the petitioner suffered a fracture of right leg and his father who is of 69 years of age is also suffering from various ailments. The said grounds were not taken by the present petitioner in his earlier bail application.

**5.** Learned counsel for the petitioner has submitted that the incident had happened on 25.04.2023 and sufficient time has lapsed since then and in the meanwhile the investigation has progressed sufficiently and there may not be any necessity for the arrest of the present petitioner. It is also submitted that the present petitioner shall cooperate in the investigation and, therefore, he may be allowed to go on anticipatory bail.

**6.** On the other hand, learned Additional Public Prosecutor has vehemently

opposed the grant of anticipatory bail to the present petitioner.

**7.** I have considered the submissions made by learned counsel for both the sides and have perused the material on record including the case diary of Satgaon P.S. Case No. 71/2023, which was called for.

**8.** It appears that on the last occasion, the prayer for anticipatory bail by the petitioner was rejected on the ground that there are incriminating materials against the petitioner in the case diary and the injury sustained by the victim/informant is grievous injury.

**9.** On the perusal of the case diary, it appears that the victim/informant suffered the fracture of the mandible and the nature of injury sustained by him is of grievous nature. It also appears that there are sufficient incriminating materials against the present petitioner, which shows that the informant/victim was assaulted by the present petitioner. Moreover, the new ground cited by the petitioner does not appear to be convincing enough as the petitioner sustained leg fracture in the month of August, 2023 and much time has passed since then and same may not be considered as a ground favoring the petitioner for getting the favourable order under Section 438 of the Code of Criminal Procedure, 1973. The previous application under the same provision of law was rejected after perusal of the case diary after finding sufficient incriminating material against him. As regards the statement that the father of the petitioner is suffering from various disease, it is not specifically mentioned as to what disease the father of the petitioner is suffering from so as to justify a favourable order under Section 438 of the Code of Criminal Procedure, 1973 for the present petitioner as only a prescription in the name of Gopal Singh has been submitted wherein certain medicines have been prescribed. However, nothing is discernible regarding the health condition of the father of this petitioner and it cannot be

assumed from the said document that the health condition of the father of the petitioner is such that the petitioner may have to be granted anticipatory bail on his second application even when sufficient incriminating materials are found against him in the case diary.

**10.** For the reasons mentioned hereinabove, this second anticipatory bail application of the present petitioner is hereby rejected.

**11.** Send back the case diary.

**JUDGE**

**Comparing Assistant**