

GAHC010022482024



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

Case No. : AB/276/2024

KISHORE DAS
S/O JANO RAM DAS
R/O VILL- DHOPATARI CHANGSARI
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A BHATTACHARYYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 07-02-2024

Heard Mr. A Bhattacharyya, learned counsel for the applicant and Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

Apprehending arrest in connection with Changsari P.S. Case No. 36/2024, under Sections 325/354 of the IPC (GR 117(K)/2024), this application under Section

438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, Sri Kishore Das, for grant of pre-arrest bail.

The said case has been registered on the basis of an F.I.R., lodged by one Hiren Medhi, on 22.1.2024.

The essence of allegations made in the FIR is that on 21.9.2024, at about 9-30 PM, he went to the house of Narapati Medhi to enquire about his daughter's marriage and while he reached the house of Dipak Medhi, he found Kishore Das (the applicant of the present petition) lying on the ground and while he tried to pick him up then the accused assaulted him and the people present raised alarm, then his daughter Manjita Medhi came there and then the accused/applicant assaulted over her head.

The learned counsel for the applicant submits that the case has been registered u/s 325/354 IPC and the offence u/s 325 IPC is bailable and though the offence u/s 354 IPC is non bailable, yet, no ingredients of the said offence appears to be made out from a bare perusal of the FIR and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Ms. A. Begum, learned Addl. P.P. submits that at this stage only case diary may be called for.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record. It appears that the case has been registered u/s 325/354 IPC, and indisputably the offence u/s 325 IPC is bailable, and though the offence u/s 354 IPC is non bailable, yet, from a bare perusal of the FIR, it cannot be said that the ingredients of the aforesaid offence are made out, here in this case.

Under the aforementioned facts and circumstances, this Court is inclined to

allow this petition. Accordingly, it is provided that in the event of arrest of the applicant, in connection with Changsari P.S. Case No. 36/2024, under Sections 325/354 of the IPC (GR 117(K)/2024), he shall be released on pre arrest bail, on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicant shall appear before the I.O as and when required.
2. That 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 her from disclosing such facts to the Court or to any police officer; and
3. That the applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Amingaon, Kamrup without prior permission.

In terms of above, this A.B stands disposed of.

JUDGE

Comparing Assistant