

GAHC010024732024



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

Case No. : AB/311/2024

ALI ARBAZ @ ARBAZ ALI
S/O ABDUL KUDDUS, RESIDENT OF MADHUSOULMARI PART-1, P.O.
MADHUSOULMARI, P.S. GAURIPUR, DIST- DHUBRI, ASSAM PIN - 783331.

VERSUS

The State Of Assam
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 05.03.2024

Heard Mr. A. A. R. Karim, learned counsel for the petitioner. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure,

1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Gauripur P.S. Case No. 30/2023, under Sections 365/342 of the Indian Penal Code, corresponding GR No. 124/2023.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. A. A. R. Karim, learned counsel for the petitioner, that the earlier anticipatory bail application of the present accused/petitioner was rejected considering the statement of the victim recorded under Section 161 Cr.P.C. However, after recording of the statement of the victim under Section 164 Cr.P.C., it has come out that the present accused/petitioner is no way involved in the alleged offence.

In this context, Mr. R. R. Kaushik, learned Additional Public Prosecutor, has submitted that on the last occasion, though the Case Diary was received, but it was directed to take instruction from the I.O. concerned as to whether the present accused/ petitioner and the person named by the victim in her statement recorded under Section 164 Cr.P.C. are the one and the same person. However, after an enquiry from the I.O., it is intimated that the person named Ali Arbaz @ Arbaz Ali, i.e. the present petitioner, and the prime accused named by the victim, namely, Abdul Motleb, are 2 (two) different person. Accordingly, it is submitted by the learned Additional Public Prosecutor that the bail prayer of the present petitioner may be considered considering the materials available in the Case Diary.

After hearing the submissions made by the learned counsels for both sides

and also considering the materials available in the Case Diary, viz-a-viz the statement made by the victim under Section 164 Cr.P.C., I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Shri Ali Arbaz @ Arfas Ali, in connection with Gauripur P.S. Case No. 30/2023, under Sections 365/342 of the Indian Penal Code, corresponding GR No. 124/2023, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant