

GAHC010027212024



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

Case No. : AB/313/2024

NASHIR UDDIN MOLLAH @ NASHIR MOLLAH
S/O ABDUL KALAM MOLLAH
@ KALAM MOLLAH
R/O VILL- DARUA KAWAHAGI
P.O. JHOWDANGA,P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR,
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PP, ASSAM

2:JOSHNA BEGUM @ ZASHNA BEGUM
W/O ABUL KALAM
R/O VILL- BHIMAPARA
P.O.FEKAMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 22.03.2024

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

No. 1 and Mr. N. Muhtarim, learned counsel for the respondent No.2.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioner, namely, **Shahin Mahabub**, in connection with **South Salmara P.S. Case No. 15/2024**, registered under Section **363/343/376(3)/323/506/34 IPC r/w Section 4 of POCSO Act.**

The learned counsel for the petitioner submits that the petitioner is no way involved in the instant case. As his name appears in the FIR, he is apprehending arrest. It is also submitted that the petitioner is a Government employee and presently holding the post of constable in 26th APBN, Chamrasali, Mankachar. It is further submitted that on the date of incident, the petitioner was on duty as Rear Guard. According to the learned counsel for the petitioner, as per order of this Court vide order dated 16.02.2024, no coercive action be taken against the petitioner. Considering the background of the case, the privilege of pre-arrest bail may be extended to the petitioner.

On the other hand, Mr. Kaushik, learned Addl.P.P. has produced the case diary which reveals that as per report of investigating officer, on the date of the incident i.e. on 22.01.2024, the petitioner was on duty as Daily Magazine Guard in the office of 26th APBN, Chamrasali, Mankachar. Therefore, the prayer of the petitioner may be considered.

Mr. Muhtarim, learned counsel for the respondent No. 2 has no objection if the prayer of the petitioner is allowed.

I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

It appears that on the date of the incident, the petitioner was on duty as Daily Magazine Guard at 26th APBN, Chamrasali, Mankachar. Also the learned

counsel for the respondent No. 2 has made no objection if the prayer of the petitioner is allowed.

Considering the facts as well as the documents available in the case diary, this Court finds that custodial interrogation of the petitioner is not required for the purpose of investigation of the case. Therefore, he is granted the privilege of pre-arrest bail.

Accordingly, it is provided that in the event of arrest of the petitioner, named above, in connection with **South Salmara P.S. Case No. 15/2024**, registered under Section **363/343/376(3)/323/506/34 IPC r/w Section 4 of POCSO Act**, he shall be released on furnishing bail bond of **Rs.20,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioner:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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 him from disclosing such facts to the Court or to any police officer.

The anticipatory bail application stands disposed of.

Send back the case diary.

JUDGE