

GAHC010028092024



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

Case No. : AB/347/2024

RAKIB UDDIN AHMED @ NEELABH SOURAV
R/O H. NO. 82, VILL AN DP.O. DIGHALIATI, WARD NO. 1,
P.S. RAHA
DIST. NAGAON, ASSAM
PIN-782425

VERSUS

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

2:THE SUPERINTENDENT OF POLICE

OFFICE OF THE SUPERINTENDENT OF POLICE
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 22.02.2024

Heard Mr. S. Borthakur, learned counsel for the applicant and Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Raha P.S. Case No. 9/2024, under Sections 153A/295/295A/416/420 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Rakib Uddin Ahmed @ Neelabh Sourav, for grant of pre-arrest bail.
3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Simanta Dewri on 23.01.2024. The essence of allegation made in the FIR dated 23.01.2024, is that one Neelabh Sourav, belonging to Muslim community, and having concealed his real identity and he had opened one Facebook account on 22.01.2024, and posted one poem in the name of Lord Ram and Sita and he used obscene words aiming Lord Ram and Sita, and thereby hurt the religious sentiment of the Hindu community.
4. Mr. Borthakur, learned counsel for the applicant submits that the applicant is innocent and no way involved in the offence alleged in the FIR and in fact, he is a poet and he has written the poem with no intention to harm religious sentiment of the other community and that there is no reference of two communities in his poem so as to attract Section 153A of the IPC, and that he is ready cooperate with the investigating agency, and therefore, it is contended to allow the application. Mr. Borthakur, in support of his submission, has also referred to three case laws i.e. *Patricia Mukhim Vs. State of Meghalaya and Ors.*, reported in (2021) 15 SCC 35; *Manzar Sayeed Khan Vs. State of Maharashtra and Anr.*, reported in (2007) 5 SCC 1; and *Manohar Lal Sharma Vs. Sanjay Leela Bhansali and Ors.*, reported in (2018) 1 SCC 770.
5. On the other hand, Ms. A. Begum, learned Addl. Public Prosecutor, by producing the case diary before this Court, has vehemently opposed the application and submits that the words used in the aforesaid poem hurt the sentiment of the other community and he did so by concealing his real identity,

and that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR and his custodial interrogation is necessary in the interest of investigation, and therefore, it is contended to dismiss the application.

6. Having heard the submission of learned Advocates of both side, I have gone through the application and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Addl. Public Prosecutor.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant. It also appears that investigation is going on and at this stage, it cannot said that custodial interrogation of the applicant is not required in the interest of investigation. His custodial interrogation seems to be indispensable in the interest of investigation.

8. I have gone through the case laws referred by Mr. Borthakur, learned counsel for the applicant, and I find that the law laid down in the aforementioned cases are not applicable in all force to the facts and circumstances of the case in hand. In the case of *Patricia Mukhim (supra)*, there was fervent plea on behalf of the petitioner to the Government for protection of non-tribal living in her state. But, here in this case, it is a poem in which the applicant has used obscene words aiming Lord Ram and Sita and the same caused hurt to the religious sentiment of the Hindu community.

9. Though, Mr. Borthakur submits that there must be two communities in the literary work so as to hurt one community and attract Section 153A IPC, yet the applicant having concealed his real identity, took a different name and published the poem, and as such, it cannot be said that the said poem has not influenced any enmity and hatred between different groups on the ground of religion and

as such, the ratio laid down in *Manzar Sayeed Khan (supra)*, and also the other case law *Manohar Lal Sharma (supra)*, would not come into his aid.

10. Further, it appears from the case diary that the applicant has been absconding since the date of occurrence to avoid arrest by police and if he is extended the privilege of pre-arrest bail, then there is every possibility of hampering the investigation and tampering the witnesses, and therefore, this Court is inclined to dismiss this application.

11. In terms of above, this application stands disposed of.

12. Case diary be returned.

JUDGE

Comparing Assistant