

GAHC010032402024



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

Case No. : AB/376/2024

SHYAM CHANDRA MAHANTA
S/O LATE PURNA KANTA MAHANTA
RESIDENT OF LATAKATA BASISTHA, PO AND PS BASISTHA, DIST
KAMRUP M ASSAM 781029

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. J SARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 20-02-2024

Heard Mr. J. Sarma, learned counsel for the applicant and also heard Mr. B. Sarma, learned Addl. P. P. for the State respondent.
This application, under Section 438 Cr.P.C. is preferred by applicants, namely, Sri Shyam Chandra Mahantai who has been apprehending arrest in connection with

Dispur P.S. Case No. 105/2024, under Section 448/354(A)/354 (B) IPC, for grant of bail.

The above noted case has been registered on the basis of one FIR lodged by one Smt.'X'(name withheld) on 9.2.2023.

The essence of allegation made in the FIR, dated 9.2.2023, is that she is an employee of Assam Secretariat in the department of Home and on 7.2.2024 at about 2.43 PM one Shyam Mahanta, an employee of Police Department subjected her to sexual harassment.

Mr. Sarma, learned counsel for the applicant submits that the applicant is an employee of Police Department and on the relevant date, he went to the Home Department of Assam Secretariat to attend some works and that in the said office, there were many people and as such, no offence as alleged in the FIR can be committed by the applicant and that the allegation are false 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, Mr. Sarma, learned Addl. P.P. Has produced the case diary and submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Sarma has opposed the petition.

Having heard the submissions of learned Advocates for both sides, I have carefully gone through the petition and documents available on record and also perused the case diary with the assistance of Mr. Sarma, learned Addl. P.P.

It appears that I.O. has collected some materials in support of the allegation made in the FIR, but in the given facts and circumstances of the record and also in view of the materials collected so far in the case diary as well as stage of investigation, this Court is of the view that custodial interrogation of the

applicant seems to be not warranted in the interest of the investigation. And therefore, this Court is inclined to allow this petition.

It is provided that in the event of arrest of the applicant, in connection with Dispur P.S. Case No. 105/2024, under Section 448/354(A)/354 (B) IPC, 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 make themselves available for interrogation by the Investigating Officer 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 him 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, Kamrup(M), without prior permission.

Case diary be returned.

JUDGE

Comparing Assistant