GAHC010034502024

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

Case No. : AB/428/2024

BAHARUL ISLAM
S/O LATE ABDUL JALIL
PERMANENT RESIDENT OF VILL- KALAPAKANI PART-II
P.O. PATAMARI
P.S. DHUBRI
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B C DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

15.03.2024

Heard Mr. B.C. Das, learned Senior Counsel, assisted by Mr. S.H. Rahman, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor, for the State respondent as well as Mr. R. Islam, learned

counsel for the informant.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting pre-arrest bail to the accused petitioner, namely, i.e. Baharul Islam, who is appending arrest, in connection with South Salmara P.S. Case No. 25/2024, registered under Section 147/148/149/436/326/325/307/302/385/427 of the IPC.

The case of the prosecution is that an FIR was lodged on 06.02.2024, alleging *inter-alia* that on 06.02.2024, the accused persons conjointly armed with lathi, dao etc. entered into the house of one Badshah Ali and set fire in his house.

It is further alleged that while the brother of the informant was working in the field, the accused persons chased to him, with an intention to kill him and stabbed him on his head and also caused grievous injuries, for which he ultimately died.

Mr. B.C. Das, learned Senior Counsel for the petitioner submits that the petitioner has been wrongly implicated in the alleged offence and that he has no role to play.

Ms. A. Begum, learned Additional Public Prosecutor, for the State respondent fairly submits that on the basis of materials available in the case diary that the Investigating Officer has not collected any adverse materials at this stage against the petitioner.

Considering the facts and circumstances of the case, this court is of the considered view that custodial interrogation of the petitioner may not be justified for the ongoing investigation. Accordingly, it is provided that in the event of arrest, the petitioner named above, shall be released on pre-arrest bail in connection with the above noted case on furnishing bail bond of Rs. 50,000/-

with a suitable surety of like amount to the satisfaction of the arresting authority, subject of course to conditions:-

(i) the petitioner shall appear before the Investigating Officer within 7 days failing which failing which from the 8th day, the pre-arrest bail shall have no force;

(ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from deposing against the petitioner in the pending trial against them; and

(iii) the petitioner shall refrain from committing any offence similar to that with which he has been accused of in the instant case.

With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant