

GAHC010037172024



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

Case No. : AB/459/2024

MD. FAZLUL HOQUE
S/O LATE REHAN ALI
R/O VILL- BANDIA, P.S. MANGALDAI
DIST. DARRANG, ASSAM, PIN-784125

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06.03.2024

Heard Mr. M. Ahmed, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Changsari P.S. Case No. 54/2024, under Sections 120B/295A/342/365/468/471/500/506 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Md. Fazlul Hoque, 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 Dharam Nath Das on 06.01.2024. The essence of allegation made in the FIR dated 06.01.2024, is that one Ajidul Islam and his mother Nurjahan Begum, kidnapped the daughter of the informant and converted her religion and thereafter, kept her confined in their own house at Dalgaon, and in the said process, some of the Advocates of District Court, Darrang are also involved.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is a Notary of Mangaldai, Darrang district and that he is no way involved with the offence alleged in the FIR and he only notarized the deed of declaration made by the victim girl, and that he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Mr. B. Sarma, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that earlier the applicant was granted the privilege of pre-arrest bail by the learned Assistant Sessions Judge, Darrang, Mangaldai, in Case No. Bail 438/05/2024, and thereafter, the case was transferred to Changsari P.S., and therefore, the present applicant apprehends arrest therein, and that the I.O. has collected some materials and therefore, Mr. Sarma has opposed the application.

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

7. It is not in dispute that the applicant has been working as Notary at Mangaldai of Darrang district and from the materials collected so far in the case diary, it appears that he notarized the declaration made by the victim of this

case. Except this, no other role appears to be played by him as it appears from the materials collected in the case diary.

8. Considering above and also considering the materials collected so far in the case diary, specially the statement of the victim girl recorded under Section 164 Cr.P.C., this Court is of the considered opinion that custodial interrogation of the applicant seems not to be warranted here in this case and therefore, this Court is inclined to allow this application.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with Changsari P.S. Case No. 54/2024, under Sections 120B/295A/342/365/468/471/500/506 of the IPC, he shall be released on pre-arrest bail on 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:

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup, Amingaon without prior permission.

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

11. Case diary be returned.

JUDGE

Comparing Assistant