

GAHC010043882024



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

Case No. : AB/598/2024

GOLAP ALI @ GOLAP HUSSAIN
S/O LT. ALAUDDIN, R/O VILL- GARAPARI, P.S.-DHULA, DIST-DARRANG,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

10.05.2024

Heard Mr. M. A. I. Hussain, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with PRC Case No.1471/2023 arising out of Mangaldoi P.S. Case No.517/2022 [G.R. Case No.2181/2022] under Sections 366/376 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Hussain that the FIR and the statement of the victim itself shows some discrepancies which creates a reasonable doubt in regards to the veracity of the prosecution case. He also submits that the petitioner was not aware about the pendency of this case as the police never searched for him during the investigation of the case. And, if, he would have been searched by the police, he could have obtained the necessary bail order, but, he came to know about this case only after filing of the charge-sheet and after receiving summon. Further, the petitioner is ready and willing to appear before the learned Trial Court to contest the case, if he is granted the privilege of interim protection, as there is an apprehension of arrest in connection with this case.

On the other hand, the learned Additional Public Prosecutor, Mr. Borthakur submits that the petitioner is shown as absconder in the charge-sheet and from the order passed by the learned Court below also it is seen that the summon

was duly served upon the accused/petitioner and his engaged counsel had also prayed for some time for his appearance. Further he submits that the accused/petitioner may be directed to appear before the learned Court below with a proper application for bail.

Hearing the submissions of the learned counsels for both sides as well as after perusal of the case record and the Case Diary, it is seen that the petitioner has been shown as absconder in the charge-sheet and the police also made a house search. The learned Court below also took several steps to procure his attendance.

However, considering the submissions made by the learned counsels for both sides and also considering the other aspect of the case, I hereby direct the petitioner to appear before the learned Court below, within 10 (ten) days from today and to file a fresh petition for regular bail and upon filing of such petition, the learned Court below shall consider and dispose of the same in accordance with law. And, till then, the execution of NBWA, issued against the petitioner, stands stayed/ suspended, if any.

In terms of above, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant