

GAHC010047672024



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

Case No. : AB/592/2024

BAHARUL ISLAM
S/O MATLIBUDDIN AHMED, R/O VILL- SIALMARI NEPALI GAON, P.O.-
KOUPATI, P.S.-DALGAON, DIST- DARRANG, ASSAM, PIN-784116

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

07.03.2024

Heard Mr. S. Islam, learned counsel for the applicant and Mr. B. Sarma, learned Additional 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. Baharul Islam**, 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 Rabindra 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. Islam, learned counsel for the applicant submits that the applicant is a practicing lawyer of District Court, Mangaldai, Darrang. Mr. Islam further submits that earlier, while the case was registered at Mangaldai P.S., being Mangaldai P.S. Case No. 06/2024, the applicant was granted the privilege of pre-arrest bail by the learned Assistant Sessions Judge, Darrang, Mangaldai, in Case No. Bail 438/06/2024, and thereafter, the case was transferred to Changsari P.S., as the place of occurrence falls under the jurisdiction of Changsari P.S. and therefore, the present applicant apprehends arrest therein. Mr. Islam also submits that one of the co-accused has already been enlarged on pre-arrest bail, by this Court, vide order dated 06.03.2024, in AB No. 459/2024, and that the present applicant also stands in the same footing. Mr. Islam also submits that the applicant is no way involved with the offence alleged in the FIR 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, by producing the Case Diary before this Court, Mr. Barua, learned Additional Public Prosecutor submits that the IO has collected sufficient incriminating materials, in support of the allegation made in the FIR

and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court, with the assistance of learned Additional Public Prosecutor.

7. In view of the materials so far collected in the case diary, especially the statement of the victim girl, recorded under Section 164 of the Cr.P.C. and also considering the role played by the applicant in the commission of the aforementioned offences, this Court is of the view that custodial interrogation of the applicant may not be required, in the interest of investigation.

8. 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 enlarged on pre-arrest bail, on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) 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

(iii) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Kamrup, Amingaon**, without prior permission.

10. In terms of this AB stands disposed of.

11. The case diary be returned.

Comparing Assistant

JUDGE