

GAHC010052372024



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

Case No. : AB/684/2024

CHANDAN KUMAR HALOI
R/O VILL- HOUSE NO. 36, PIYALI PHUKAN NAGAR, CHANDMARI, P.O. AND
P.S.-CHANDMARI, DIST-KAMRUP (M), ASSAM, PIN-781003, OFF.ADD.-
HOUSE NO. 9, BYA LANE-9, 2ND FLOOR, ZOO-ROAD, GUWAHATI-24

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. S NAZNEEN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

02.04.2024

Heard Mr. K.M. Hassan, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned Additional Public Prosecutor appearing for the State of Assam.

This application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Shri Chandan Kumar Haloi, who is apprehending his arrest in connection with Geetanagar P.S. Case No. 54/2024 under Section 417/352/153A/506/34 of the Indian Penal Code.

The gist of accusation in this case is that on 20.02.2024, one Shri Raju Prasad had lodged an FIR(First Information Report) before the Officer-In-Charge of Geetanagar Police Station, *inter-alia*, alleging that the petitioner had some outstanding dues towards the informant of the FIR regarding the goods and services availed by the petitioner in between March 2023 to May 2023 and the outstanding dues was to the extent of Rs. 25,000/-.

It is also alleged in the FIR that on the day of incident some altercation occurred between the informant and the petitioner, wherein, the petitioner threatened the informant to kill him and also threatened that the informant Raju, who is a non-Assamese person has to leave Assam if he tries to fight with the petitioner.

On receipt of the said FIR Geetanagar P.S. Case No. 54/2024 under Section 417/352/153A/506/34 was registered.

Learned counsel for the petitioner has submitted that all the Sections of the Indian Penal Code under which the case has been registered except Section 153A are bailable. He has also submitted that even if the allegations made in the FIR against the present petitioner are taken at its face value, no offence has been made under Section 153A as the said provision is applicable only if the actions of the accused promotes enmity between different groups on the grounds of race, religion, place of birth etc. However, in the instant case, the only allegation is that the petitioner had threatened the informant Raju Prasad only and therefore, Section 153A is not applicable to this case.

On the other hand, learned Additional Public Prosecutor, has produced the

case diary of Geetanagar P.S. Case No. 54/2024 and has submitted that there are incriminating materials against the present petitioner in the case diary and some of the witnesses have also made statements against the present petitioner.

I have considered the submissions made by the learned counsel for both the parties and have perused the materials available on record, including the case record of Geetanagar P.S. Case No. 54/2024.

Though there are incriminating materials in the case diary against the present petitioner, however, considering the nature of allegations made in this case, this court is of the considered opinion that custodial detention of the present petitioner may not be necessary for fair completion of the investigation of Geetanagar P.S. Case No. 54/2024, if the petitioner co-operates with the Investigating Officer.

In view of above, the petitioner is hereby directed to appear before the Investigating Officer of Geetanagar P.S. Case No. 54/2024 within a period of 10 days from the date of this order and co-operate in the investigation. If he does so within the stipulated period of time, in the event of his arrest in connection with Geetanagar P.S. Case No. 54/2024, the above named petitioner shall be allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

- (i) 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 disclosing such facts before the Investigating Officer or to any Court; and
- (ii) the petitioner shall co-operate in the investigation.

With the above observations, this anticipatory bail application is hereby

disposed of.

Send back the case diary.

JUDGE

Comparing Assistant