

GAHC010057232024



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

Case No. : AB/747/2024

CHAN MIAH SHEIKH
S/O LATE IBRAHIM SHEIKH, R/O VILL- BARBAKHARA, P.S.- MANIKPUR,
DIST- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:KAHINUR PARBIN
W/O MANIK ALI
R/O VILL- BARBAKHARA
P.S.-MANIKPUR
DIST- BONGAIGAON
ASSA

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

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

13.05.2024

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. P. Sharma, learned Additional Public Prosecutor for the State respondent as well as Mr. A. Rahman, learned counsel appearing on behalf of the informant/respondent No.2.

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 has been apprehending arrest in connection with Manikar P.S. Case No.28/2024 under Sections 376/511/506 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Khan that the accused/petitioner is innocent and not at all involved in the alleged offence. He also submitted that the informant had lodged the FIR with some false and concocted allegation only due to some family dispute. More, so the accused/petitioner is ready and willing to co-operate the IO with further investigation of the case, if he is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. Sharma, has submitted that there is sufficient incriminating materials available in the Case Diary against the accused/petitioner, as well as in the statement made by the victim under Section 161 of Cr.P.C. Accordingly, he raised objection on the prayer made by the learned counsel for the petitioner.

On the hand, Mr. Rahman, learned counsel for the informant has submitted that the respondent No.2 had lodged the FIR only due to some

misunderstanding and to that effect the victim had already sworn an affidavit stating that she had lodged the FIR on misunderstanding and accordingly, he raised no objection, if the accused/petitioner is granted with the privilege of pre-arrest bail.

After hearing the submissions made by the learned counsels of both sides and also considering the entire aspects of the case, nature of allegation as well as the compromise between the parties, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Chan Miah Sheikh, in connection with Manikar P.S. Case No.28/2024 under Sections 376/511/506 of IPC, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer within 7(seven) from today.
- (ii) that the petitioner 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 petitioner shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

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

JUDGE

Comparing Assistant