

GAHC010062102024



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

Case No. : AB/790/2024

MD. ANAR HUSSAIN
S/O KALU MIYA, R/O KATAHGURI, P.S.-MAYONG, DIST-MORIGAON,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A BARUAH

Advocate for the Respondent : PP, ASSAM

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

27.03.2024

Heard Mr. A. Baruah, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with PRC Case No.1157/2019 corresponding to Mayong P. S. Case No.276/2017 under Section 366(A) of the Indian Penal Code.

Mr. Baruah, learned counsel for the petitioner has submitted that a false and concocted case has been filed against the present petitioner along with his other family members. However, the other family members were discharged and the case was charge-sheeted only against the present petitioner by showing him as an absconder. He submits further that the petitioner was not aware about the pendency of this case nor police searched him during the investigation. However, he submits that the accused/petitioner is ready and willing to appear before the learned Trial Court to contest the case and accordingly, he prays for interim protection till his appearance before the said Court.

In this context, Mr. Das, learned Additional Public Prosecutor has submitted that from the record it is seen that the case has already been charge-sheeted in the year 2017 and the case was pending since last 6/7 years only for the appearance of the accused/petitioner who was shown as an absconder in the charge-sheet. Further he submits that he may be directed to appear before

the learned Trial Court with a fresh application for bail.

After considering the submissions made by the learned counsels of both sides, I have perused the case record annexed along with the petition as well as order sheet of the learned Trial Court, which reveals that the learned Sub-Divisional Judicial Magistrate, Morigaon had issued summon against the accused/petitioner and petition filed on his behalf is also accepted. Thus, considering the entire facts and circumstance of this case, I hereby direct the present petitioner to appear before the learned Court below along with a fresh petition for bail and, thereafter, the learned Court below shall pass the order in accordance with law. Further, till the next date of listing i.e. on 02.04.2024, no coercive action shall be taken against the accused petitioner. Till then, the NBWA issued against the accused/petitioner by the Trial Court, if any, shall be stayed.

With above observation, this Anticipatory Bail application stands disposed of.

JUDGE

Comparing Assistant