

GAHC010063792024



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

Case No. : AB/803/2024

MAMTAZ ALI KAKATI
SON OF LATE MAZIBUDDIN AHMED, RESIDENT OF SOUTH COLONY,
BAMUNIMAIDAN, PS GEETANAGAR, KAMRUP M GUWAHATI ASSAM
781021

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MD P RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

03.05.2024

Heard Mr. M.Z. Shah, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Mamtaz Ali Kakati @ Mamtaz Kakti has approached this Court seeking the benefit of

pre-arrest bail, apprehending his arrest, in connection with Geetanagar Police Station Case no. 69/2024 registered under Section 380, Indian Penal Code [IPC].

3. The First Information Report [FIR] is lodged before the Officer In-Charge, Geetanagar Police Station on 15.03.2024 by one Tannu Begum as the informant. In the FIR, the informant has inter alia alleged that in the evening hours of 14.03.2024, the petitioner who is the husband of her maternal aunt, entered into the room of the informant's maternal grandmother and committed theft of a cash amount of Rs. 50,000/-, a gold chain and other items.

4. Mr. Shah, learned counsel for the petitioner has submitted that the petitioner is married to one Ms. Ranu Choudhuri. Ms. Ranu Choudhuri has two sisters viz. Bobita Choudhury and Marami Choudhury. The petitioner has contended that a dispute between the three sisters is going on as regards the landed property belonging to their parents. In this connection, an FIR has already been lodged by the daughter of the petitioner before the Geetanagar Police Station and the same has been registered as Geetanagar Police Station Case no. 64/2024 for the offences under Sections 147/148/447/506/448/307, IPC and in the said case, the mother of the informant was arrested and forwarded to judicial custody. It is, thus, contended by Mr. Shah that the present application is a counterblast to the FIR in Geetanagar Police Station Case no. 64/2024.

5. Mr. Sarma, learned Additional Public Prosecutor who has received the case diary, has submitted on the basis of the materials available in the case diary, collected during the course of investigation carried out so far, go to indicate that some of the witnesses had seen the petitioner entering into the room, as alleged by the informant in the FIR. No material has, however, been collected till date as regards commission of theft by the petitioner. Mr. Sarma has further submitted that the investigation of the case is in progress.

6. The petitioner was extended interim protection by an order dated 28.03.2024 with a direction to him to appear before the Investigating Officer [I.O.] of the case within 7 [seven] days from 28.03.2024.

7. Both the learned counsel for the petitioner and the learned Additional Public Prosecutor have submitted that in deference to the order dated 28.03.2024, the petitioner has appeared

before the I.O. of the case and upon his appearance before the I.O., the I.O. has duly recorded the statement of the petitioner.

8. Having regard to the afore-mentioned facts and the fact that the petitioner has already joined the investigation, this Court is of the considered view that custodial interrogation of the petitioner is not necessary for the purpose of carrying out further investigation of the case and his release on pre-arrest bail, at this stage of investigation, is unlikely to bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

9. Accordingly, the interim protection granted to the petitioner by order dated 28.03.2024 is hereby made absolute, subject to the condition nos. [ii] & [iii] laid down in the order dated 28.03.2024.

10. The application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant