

GAHC010066232024



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

Case No. : AB/832/2024

SOPIKUL HAQUE
S/O TAIYOB ALI, R/O DHARMASALA PT.-I, P.O. AND P.S.-DHUBRI, DIST-
DHUBRI, ASSAM, PIN-783324

VERSUS

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

2:KADBHAN BIBI
W/O SHAHAJAHAN SK
R/O DHARMASALA PT-I
PACHIM DHARMASALA
P.O. AND P.S.-DHUBRI
DIST-DHUBRI
ASSAM
PIN-78332

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

01.04.2024

Heard Mr. M.A. Islam, learned counsel for the petitioner. Also heard Mr. B. Sharma, 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 Sopikul Hoque, who is apprehending his arrest in connection with Special Case No. 334/2023 under Section 376/506/294/323/325/354(B) of the Indian Penal Code read with Section 4 of the POCSO Act, 2012.

The said case is pending in the court of learned Special Judge-cum-learned Additional Sessions Judge, Dhubri.

Learned counsel for the petitioner has submitted that the trial court has issued summons to the present petitioner. However, as the present petitioner has been shown as an absconder in the charge-sheet and considering the nature of the offence involved in this case, he is apprehending that on his appearance before the trial court, he may be detained and may not be granted bail.

I have also heard the learned Additional Public Prosecutor.

The apprehension of getting arrested by the petitioner has been narrated in the bail application does not appears to be genuine on facts, as the trial court has only issued summons to the present petitioner and the trial court is also competent to grant bail under the offences which are involved in this case.

There is no embargo for the trial court to grant bail for the above

mentioned offences.

Hence, this court is of the considered opinion that the apprehension of getting arrested at this stage does not have any basis. Therefore, this bail application is dismissed with a direction to the petitioner that he may appear before the trial court in pursuant to the summons issued to him by the trial court, and on his appearance, he may seek any relief before the trial court to which he is legally entitled to.

With this observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant