

GAHC010074152024



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

Case No. : AB/945/2024

SHORIF ALI @ SHORFUDDIN ALI
S/O ABDUL KHALEK ALI,
RESIDENT OF VILLAGE KAWADANGA, PO BARBAGAN, PS KALAIGAON,
DIST DARRANG, ASSAM 784525

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.04.2024

- 1)** Heard Mr. A. K. Azad, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent.
- 2)** This application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the petitioner, namely, Shorif Ali @ Shorfuiddin Ali,

who is apprehending his arrest in connection with Noonmati P.S. Case No. 61/2024 under Section 369 of the Indian Penal Code.

3) The gist of accusation in this case is that on 13.03.2024, one Sufia Khatun had lodged an FIR before the Officer-in-Charge of Noonmati Police Station stating that on 12.03.2024, when the first informant went to work, leaving her 7 year-old child at home, and upon returning from the work, she could not find her son. So, later on she came to know that her second husband, Md. Sorif Uddin Ali (present petitioner) had taken away the son and in exchange for returning the son, demanded Rs. 1,40,000/- from the first informant.

4) Learned counsel for the petitioner has submitted that the first informant is the wife of the present petitioner and when they were living together there was some matrimonial discord between them and the first informant left the house of the petitioner and only to bring her back he had taken away the son with him.

5) It is further submitted that the son of the first informant has already been recovered and given the zimma to the mother i.e. the first informant of the case.

6) It is also submitted by learned counsel for the petitioner that the petitioner is ready to cooperate in the investigation.

7) On the other hand, learned Additional Public Prosecutor has produced the case diary of Noonmati P.S. Case No. 61/2024 and has submitted that there are incriminating materials against the present petitioner in the case diary. However, he has also submitted that the minor son has already been recovered from the possession of the present petitioner and handed over to the mother of the son.

8) I have considered this submissions made by learned counsel for the

both the sides and have perused the materials that available on record including the case diary of Noonmati P.S. Case No. 61/2024.

9) Though, there are incriminating materials against the present petitioner in the case diary, however, considering the fact that the victim has been recovered and there was a matrimonial discord between the informant as well as the present petitioner, this Court is of considered opinion that custodial detention of the present petitioner may not be required for the fair completion of the investigation, if the petitioner cooperates in the investigation.

10) In view of the above, the petitioner, namely, Shorif Ali @ Shorfuiddin Ali is hereby directed to appear before the Investigating Officer of Noonmati P.S. Case No. 61/2024 within a period of 10 days from the date of this order and co-operate with the Investigating Officer in fair completion of investigation. If he does so within the said period, in the event of his arrest in connection with Noonmati P.S. Case No. 61/2024, he shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty 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 co-operate in the investigation.
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

11) With the above observations, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant