

GAHC010075742024



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

Case No. : AB/978/2024

SAHIRUN NESSA @ CHAHERUN NECHA
W/O KASHEM ALI @ ABUL KASIM ALI
RESIDENT OF KABAITARI PS AND DIST BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.05.2024

Heard Mr. M.I. Hussain, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Bongaigaon P.S. Case No.103/2024 under Section 419/365 IPC, this application under Section 438 Cr.P.C. is preferred by applicant,

namely, Sahirun Nessa, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Mukul Talukdar, Principal, Jawahar Navodaya Vidyalaya, Bongaigaon, on 18.03.2024. The essence of allegation made in the aforesaid FIR is that on 13.03.2024, one lady, namely, Sahirun Nessa has taken one minor girl, namely, Miss Shahin Parbin, aged 17 years, from Jawahar Navodaya Vidyalaya, Bongaigaon campus, by fraudulently impersonating herself as mother of the girl and wrongfully abducted with malafide intention and later on it has come to light that the lady accepted that the minor girl has come with her son Saddam Hussain and she does not know where her son and the minor girl is staying.

4. Mr. Hussain, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and she is ready to cooperate with the investigating agency and the victim girl has already been recovered and her statement under Section 164 Cr.P.C. was also recorded and in her statement she has not implicated the applicant with the offence alleged and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the applicant and the investigation is going on and enlarging the applicant on pre-arrest bail at this stage, will hamper the investigation and therefore, Mr. Sarma contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the present applicant in support of the allegation made in the FIR. The offences are serious in nature and the investigation is still going on and granting the privilege of

pre-arrest bail to the applicant at this stage will hamper the investigation. And therefore, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the anticipatory bail application stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant