

GAHC010080742024



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

Case No. : AB/1047/2024

KAUSTAV KASHYAP BARUAH
S/O RATUL BARUAH,
R/O HOUSE NO- 25, BELTOLA SURVEY ROAD, P.O.- DISPUR, DIST.-
KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY P.P., ASSAM.

2:ASHRUMALA BARMAN
W/O RATHENDRA BARUAH

R/O 24 DICSOW BAAT
SAMANNAY PATH
SURVEY
DISPUR
GUWAHATI EAST
P.S.- DISPUR
DIST.- KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR. J I BORBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

28.06.2024

- 1.** Heard Mr. J.I. Borbhuiya, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam as well as Ms. M.K. Brown, learned Amicus Curiae, who is appointed for defending the cause of the petitioner.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sri Kaustav Kashyap Baruah, who is apprehending his arrest in connection with Dispur P.S. Case No. 317/2024 under section 12 of POCSO Act, 2012.
- 3.** The gist of accusation in this case is that the mother of the victim girl had lodged an FIR on 19.04.2024, before the Officer-In-Charge of Dispur Police Station, *inter alia*, alleging that on that day at about 1:30 PM, in the afternoon, the petitioner was exposing his private parts to her minor daughter and doing indecent things in front of her.
- 4.** The learned counsel for the petitioner submitted that the allegations levelled in the FIR are not true.
- 5.** The learned counsel for the petitioner also submits that he is staying in a rented accommodation adjacent to the informant's house and the informant and the landlord of the present petitioner have boundary disputes and therefore, he has been falsely implicated.
- 6.** On the other hand, both learned Additional Public Prosecutor and

learned Amicus Curiae has submitted that there are materials in the case diary against the present petitioner.

7. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record, including the case diary of Dispur P.S. Case No. 317/2024. Though it appears that there are incriminating materials against the present petitioner in the case diary, however, it also appears that in the meanwhile the Investigating Officer has recorded the statement of almost all the material witnesses and therefore, this Court is of the considered opinion that considering the facts and circumstances of this case, the custodial detention of the present petitioner may not be necessary in fair completion of the investigation of Dispur P.S. Case No. 317/2024, if he co-operates with the Investigating Officer.

8. In view of above, the above-named petitioner, is hereby directed to appear before the Investigating Officer of Dispur P.S. Case No. 317/2024, within a period of 10 days from the date of this order and co-operate in the investigation. If he does so within the stipulated period of time, in the event of his arrest in connection with Dispur P.S. Case No. 317/2024, the above named-petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

- (i) the petitioner shall co-operate in the investigation; and
- (ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other

persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

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

10. Send back the case diary.

JUDGE

Comparing Assistant