

GAHC010086372024



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

Case No. : AB/1144/2024

ABHINANDAN KAKOTY AND ANR.
S/O SHRI NABIN CHANDRA KAKOTY
R/O H. NO. 27, HATIGARH CHARIALI, SBI COLOY, GUWAHATI,
KAMRUP (M), ASSAM

2: NABIN CHANDRA KAKOTY
S/OLATE RATNADHAR KAKOTY
R/O H. NO. 27
HATIGARH
CHARIALI
SBI COLONY
GUWAHATI
KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP.BY THE PP, ASSAM

Advocate for the Petitioner : MR G K DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.05.2024

Heard Mr. A.M. Baruah, learned counsel for the applicants and Ms. N. Das,
learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 of the Code of Criminal Procedure, is preferred by applicants namely, **Sri Abhinandan Kakoty and Shri Nabin Chandra Kakoty**, who have been apprehending arrest in connection with **Geetanagar P.S. Case No. 61/2024**, under Sections 498(A)/294/363 of the IPC, for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of an FIR lodged by one Asha Singh Kakoty, on 09.03.2024. The essence of allegation made in the FIR is that her husband and her father-in-law subjected her both physical and mental torture and unable to bear the same, she left her matrimonial home and her husband forcefully kept her 10 years old boy and 3 years old girl, since 04.03.2024.

4. Mr. Baruah, learned counsel for the applicant submits that a case for judicial separation and custody of children is pending before the court of learned Family Court No. 2, Kamrup (M) at Guwahati and that this case is filed with malafide intention. Mr. Baruah further submits that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. Das, learned Additional Public Prosecutor submits that she has not received the case diary, but she has the instruction that the I.O. has already completed investigation and laid Charge-Sheet against the applicant, under Sections 498(A)/294/363 of the IPC, vide Charge-Sheet No. 47/2024, dated 27.04.2024.

6. In view of above, this Court is inclined to dispose of this anticipatory application by directing the applicant to appear before the learned court below on or before **28.05.2024**, and to apply for regular bail and in event of filing such an application, the learned Court below shall consider the same in accordance with law.

7. Till appearance of the applicant before the learned court below, this Court is inclined to extend the privilege of pre-arrest bail to the applicant and accordingly, it

is provided that in the event of arrest of the applicant, in connection with **Geetanagar P.S. Case No. 61/2024**, under Sections 498(A)/294/363 of the IPC, he shall be enlarged on interim pre-arrest bail on executing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the arresting authority.

8. The above privilege is, however, subject to the following conditions:

(i) The applicant shall appear before the court of learned **Chief Judicial Magistrate, Kamrup (M) at Guwahati**, on or before 28.05.2024;

(ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iii) The applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Kamrup (M) at Guwahati** without prior permission.

9. In term of above, this AB stands disposed of.

Comparing Assistant

JUDGE