

GAHC010090042024



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

Case No. : AB/1176/2024

ABDUL KHALEK @ KHALEK ALI
S/O ANUWAR ALI @ ANAR ALI,
VILL.- KAHIKUCHI, P.O.- TOPATOLI, P.S.- KHETRI, DIST.- KAMRUP (M),
ASSAM, PIN- 782403.

VERSUS

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

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 08.05.2024

Heard Mr. A. Z. Ahmed, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with PRC Case No. 928/2024, pending before the Court of learned SDJM(S) No. 2, Kamrup(M), under Section 306 IPC, arising out of Khetri P.S. Case No. 15/2024, under Sections 341/ 506/306/109 IPC.

It is submitted by Mr. A. Z. Ahmed, learned counsel for the petitioner, that in pursuant to order dated 19.04.2024, passed in AB No. 668/2024, the present accused/petitioner appeared before the learned Court below, i.e. the Court of learned Additional Chief Judicial Magistrate, Kamrup(M), where the case is pending as the same has not yet been committed before the Court of learned Sessions Judge, Kamrup(M). But, vide order dated 24.04.2024, passed in PRC Case No. 928/2024, the learned Additional Chief Judicial Magistrate placed the matter before the Court of learned Chief Judicial Magistrate, Kamrup(M) for passing necessary order as the case has already been Charge-Sheeted. He further submitted that the case is not yet committed to the Court of learned Sessions Judge and no order has been passed by the learned Additional Chief Judicial Magistrate, where the accused/petitioner appeared with an appropriate application for bail.

In this context, Mr. Parasar, learned Additional Public Prosecutor, has submitted that the accused/petitioner may be directed to appear before the learned Court below with an appropriate application for bail. However, he raised no objection in the event of extending interim protection to the accused/petitioner till his appearance before the learned Trial Court.

After hearing the submissions made by the learned counsels for both sides and also on perusal of the order dated 24.04.2024, passed by the learned Additional Chief Judicial Magistrate, Kamrup(M) in PRC Case No. 928/2024, it reveals that the case is not yet committed before the Court of learned Sessions Judge, Kamrup(M) and the learned Additional Chief Judicial Magistrate, Kamrup(M) simply placed the matter before the learned Chief Judicial Magistrate, Kamrup(M) with an observation that the case has already been Charge-Sheeted.

Accordingly, the learned Additional Chief Judicial Magistrate, Kamrup(M)/ Chief Judicial Magistrate, Kamrup(M) is hereby directed to commit the case before the Court of learned Sessions Judge, Kamrup(M) within a week from today and the petitioner is hereby directed to appear before the learned Trial Court within 10 (ten) days from the date of passing of this order with an appropriate application for bail, which shall be considered by the learned Court below in accordance with law.

Till then, interim protection extended to the accused/petitioner, namely, Abdul Khalek @ Khalek Ali, vide order dated 14.03.2024, shall continue.

In terms of above, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant