

GAHC010104732024



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

Case No. : AB/1371/2024

SAHJALAL
S/O MAHAR UDDIN, VILL- PHALIHAMARI PAM, P.S.-BHURAGAON, DIST-
MORIGAON (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. P RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-07-2024

Heard Mr. P. Rahman, learned counsel for the petitioner Sahjalal and Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State.

2. The petitioner has filed this application under Section 438 of the Code of Criminal Procedure, 1973 with prayer for pre-arrest bail as he is apprehending

arrest in connection with PR Case No. 462/2024 arising out of Laharighat Police Station Case No. 290/2023 (GR No. 1962/2023) under Sections 376/313/294 of the Indian Penal Code, 1860 pending in the Court of learned SDJM, Morigaon.

3. The petitioner has relied on the decision of the Coordinate Bench of this Court in connection with AB No. 1643/2024 wherein vide order dated 19.07.2024 the accused was granted pre-arrest bail in a similar circumstance.

4. I have considered the submissions at the bar with circumspection.

5. The learned Additional Public Prosecutor has raised objection stating that the petitioner has not cooperated with the investigation and he is not entitled to bail.

6. The allegation against the petitioner is that he committed rape on the victim who is his sister-in-law. It is submitted that a false case has been slammed against the petitioner and there is every possibility that the petitioner will be acquitted from this case.

7. It is submitted that summons have been issued against the petitioner and he is apprehending that he will be forwarded to custody. The petitioner has pledged to cooperate with the investigation.

8. I have taken a pragmatic view. Summons was issued against the petitioner and this case is fixed for appearance on 08.08.2024. Charge sheet was laid against the petitioner on 30.04.2024. It appears that this is not an old pending case and the petitioner is willing to cooperate with the investigation.

9. Considering all aspects and in view of foregoing discussions, petition is allowed. The petitioner is directed to appear before the learned jurisdictional Court and apply for bail and the jurisdictional Court may enlarge the petitioner on bail on furnishing a bail bond of *Rs.30,000/- (Rupees Thirty Thousand)* with

a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

(i) The petitioner shall not tamper with the evidence and try to influence the witnesses.

(ii) The petitioner shall not leave the jurisdiction of the Court without prior permission till completion of the trial.

9. On breach of any of the bail conditions, the learned jurisdictional Court is at liberty to cancel the bail.

10. In terms of the aforesaid observations, this Anticipatory Bail application stands disposed of.

JUDGE

Comparing Assistant