

GAHC010106952024



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

Case No. : AB/1398/2024

SAHAJAHAN MAZUMDER
S/O LATE HAJI MAKMOOD ALI MAZUMDAR, R/O VILL- MADHURBOND,
P.S.-SILCHAR, PIN CODE 788001, DIST- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19-07-2024

- 1.** Heard Mr. R. Mazumdar, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.

- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Sahajahan Mazumder*, who is apprehending his arrest in connection with PRC Case No. 2136/2020 corresponding to Silchar P.S. Case No. 1157/2002 under Sections 147/148/149/341/326/302 of

the Indian Penal Code.

3. The learned counsel for the petitioner has submitted that though on the basis of an FIR which was lodged in the year 2002 on the basis of Silchar P.S. Case No. 1157/2002 was registered and ultimately on completion of the investigation, the charge-sheet was laid against five accused persons including the one Sahajan Ali. However, learned counsel for the petitioner has submitted that the petitioner is not the person against whom the charge-sheet has been laid and whose name has been mentioned as Sahajan Ali.

4. The learned counsel for the petitioner has submitted that the Committal Court i.e., the Court of learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar, before which the PRC Case No. 2136/2020 is presently pending, on 12.12.2023, had issued Non-bailable Warrant of Arrest against one Sahajan Ahmed Mazumder.

5. The learned counsel for the petitioner has submitted that though the name of the present petitioner is Sahajahan Mazumder and not Sahajan Ahmed Mazumder, however, the Police is now searching for him on the strength of the Non-bailable Warrant of Arrest issued by the learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar and, therefore, he is apprehending his arrest in this case.

6. On the other hand, learned Additional Public Prosecutor has submitted that during investigation, the accused has been identified by one witness by only his first name i.e., Sahajahan. Apparently there is discrepancy in the name of accused shown in the charge-sheet as well as warrant of Arrest issued by the learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar on 12.12.2023. To

fortify his submission regarding the name of the petitioner as Sahajahan Mazumder, the learned counsel for the petitioner has produced the copy of the High School Leaving Certificate as well as PAN card of the petitioner wherein his name has been shown as Sahajahan Mazumder only.

7. I have considered the submissions made by the learned counsel for both the parties and have gone through the material available on record including the scanned copy of the case record of PRC Case No. 2136/2020.

8. It appears that the charge-sheet in the PRC Case No. 2136/2020 has been laid against five persons including one Sahajan Ali and it also appears that by order dated 12.12.2023, learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar had issued Warrant of Arrest against Sahajan Ahmed Mazumder. It also appears that the present petitioner is neither Sahajan Ali nor Sahajan Ahmed Mazumder as appears from the High School Leaving Certificate as well as PAN card produced by the learned counsel for the petitioner in support of his submission. However, as the Police is searching for the present petitioner, there is a genuine apprehension that the petitioner may be arrested on the strength of Warrant of Arrest issued against him by the Court of learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar.

9. In view of the above, the petitioner, namely, Sahajahan Mazumder is directed to appear before the learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar within a period of fifteen days from the date of this order so that he may make an appropriate application before the said Court narrating his side of the story. However, in the meanwhile, if on the strength of the Warrant of Arrest issued by the said Court, the above named petitioner is arrested, he shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of the Arresting Authority.

10. On his appearance before the learned Sub-Divisional Judicial Magistrate(S), Cachar, Silchar, the above named petitioner may make prayer for appropriate relief before the said Court, to which he may be legally entitled to.

11. With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant