

GAHC010124132024



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

Case No. : AB/1613/2024

AKHIRUL ISLAM @ SHAHIDUR ISLAM
S/O LT. BUDU SARKAR @ BADARUDDIN SARKAR, R/O JHOWDANGA
KANYAMATI, P.S.-MANKACHAR, DIST-SOUTH SALMARA MANKACHAR,
ASSAM, PIN-783131

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M A ISLAM, MR J I MONDAL

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 02.08.2024

Heard Mr. M. A. Islam, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

2. 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 Mankachar P.S. Case No. 99/2024, under Sections 447/326/307/34 of the Indian Penal Code.

3. When the matter was taken up for hearing, Mr. B. Sharma, learned Additional Public Prosecutor, has submitted that the earlier bail application for the present accused/petitioner was rejected by this Court on 31.07.2024 in AB No. 1666/2024, but suppressing the said fact, the present petition has been filed by the petitioner. He further submitted that one rejection order is also available in the Case Diary.

3. On receiving such information from the learned Additional Public Prosecutor, the matter was enquired and it is found that the present bail petition was filed on 18.06.2024, wherein the matter was put up for motion on 24.06.2024 and thereafter the case was fixed for production of the Case Diary on 19.07.2024 and today is the next date for production of the Case Diary. But, the other case, wherein the anticipatory bail prayer was rejected for the present

petitioner, was filed on 24.06.2024 and it was put up on 27.06.2024 for motion and thereafter the case was fixed on 19.07.2024 and finally on 31.07.2024, the matter was disposed of after perusal of the Case Diary and the anticipatory bail prayer was rejected by this Court vide order dated 31.07.2024. It is further seen that the other anticipatory bail application was filed by one learned counsel, Mr. Mofidul Islam, against the present petitioner whose name was reflected as Akhirul Islam in the anticipatory bail petition.

4. Mr. M. A. Islam, learned counsel for the present petitioner, has submitted that he had no knowledge in regards to institution of any other anticipatory bail application on behalf of the present petitioner and the present petition was filed on 18.06.2024, wherein he did not find any other bail petition pending for the present accused/petitioner.

5. In the same time, on enquiry, the other counsel, Mr. Mofidul Islam, submitted that he enquired about the filing of any earlier bail petition by the present accused/petitioner and it was searched by name and he did not find any application filed by the present petitioner and without having any knowledge regarding the pendency of any other bail application, he filed the bail application on 24.06.2024, when he was not at all aware about the pendency of any other application for bail for the present petitioner. Mr. Mofidul Islam further submitted that at the time of filing of application, the counsel who appeared for the petitioner before the learned Session Judge, also accompanied the present accused/petitioner and after searching in the website by name, when he did not find any pending application, he filed the anticipatory bail application on behalf of the present petitioner.

6. In this context, Mr. Mr. B. Sharma, learned Additional Public Prosecutor, has submitted that in the present petition, the name of the petitioner is mentioned as Akhirul Islam @ Shahidur Islam whereas in the earlier anticipatory bail application, the name of the petitioner is mentioned only as Akhirul Islam, which is intentionally done by the petitioner and for that reason only, the pendency of the other petition was not shown in the CIS system as the different name of the petitioners. Mr. Sharma further submitted that this is the tactics presently applied by the petitioners when any petitioner failed to obtain order of interim protection and they used to file another application suppressing about the filing of the other application only with a *mala fide* intention to obtain the order of bail. Further it is seen that both the affidavits were sworn by the present accused/petitioner suppressing the pendency of the other bail application for the petitioner.

7. Considering the entire facts and circumstances of this case, I find that the Registry should verify into the matter as to how the present petitioner sworn the 2 (two) affidavits by misleading and suppressing the fact that another bail application is pending in the same Court. After enquiry, Registry will do the needful accordingly.

8. Further, the counsels for the petitioner are also hereby directed to be cautious in filing any bail application and after thorough verification only, the bail petition should be filed before this Court.

9. More so, it is seen that no new and urgent ground is brought by the present petitioner to consider his bail petition which was rejected earlier on

perusal of the Case Diary and considering the incriminating materials against him.

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

11. Registry be informed accordingly.

JUDGE

Comparing Assistant