

GAHC010171492024



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

Case No. : AB/2252/2024

YASMIN BEGUM @ YASMIN SULTANA
W/O NUR ASAD
R/O BHUJKHOWA CHAPORI
P.S. TEZPUR
DIST. SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MD. I HUSSAIN,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.09.2024

- 1)** Heard Mr. S. H. Hassan, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State of Assam.
- 2)** This application under Section 482 of the BNSS, 2023 has been filed by the petitioner Yasmin Begum @ Yasmin Sultana, who is apprehending arrest in connection with PRC Case No.418/2024 under Sections 326/307/34 of the Indian Penal Code pending before the Court of learned Chief Judicial Magistrate,

Sonitpur, Tezpur.

3) Learned counsel for the petitioner has submitted that the petitioner has received summons from the Trial court, however as the Session triable offences are involved, he apprehends that on her appearance, before the Trial court, the petitioner would be remanded to custody and, therefore, he has prayed for allowing the petitioner to go on bail.

4) On the other hand, learned Additional Public Prosecutor has submitted that as the petitioner has received summons from the Trial court, there is no apprehension of her getting arrested in connection with the pending case.

5) It appears that the petitioner has approach this Court mainly because of the embargo of Section 437(1)(i) of the Cr.PC, where the Magistrate may not grant bail for an offence, where there are reasonable ground for believing that the accused has been guilty of an offence punishable with death or life imprisonment.

6) However, the petitioner being a lady, the proviso to Section 437(1) may be applicable in her case and, therefore the committal court is not debarred from considering the bail prayer of the petitioner on her appearance before the said Court.

7) Thus, this Court is of the considered opinion that there is no apprehension of the petitioner getting arrested in the PRC Case No.418/2024 as of now.

8) Moreover, because she has only received summons from the learned Chief Judicial Magistrate, Sonitpur, the petitioner may pray for regular bail on her appearance before the learned committal court and if such a prayer is made, same shall be considered by the learned Chief Judicial Magistrate as per law.

9) With the above observations this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant