

GAHC010188282024



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

Case No. : AB/2431/2024

ZINNATUL ALI @ ZINNATUL ISLAM
S/O SAFIKUL ALI @ SAFIQUUL ISLAM
R/O VILL- KACHARIBORI
P.S. LAHARIGHAT
DIST.MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED, MR A AHMED,U U KHAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

04.11.2024

Heard Mr. A Ahmed, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the state.

2) Apprehending his arrest , the petitioner, namely, **Zinnatul Ali @Zinnatul Islam**, son of Safikul Ali @Safiquil Islam, resident of village-Kacharibori, Police Station- Laharighat, District- Morigaon, has filed this application under Section 482 of the Bharatiya Nagarik

Suraksha Sanhita, 2023, for granting him pre-arrest bail in **Mikirbheta Police Station Case No.223/2023** under Sections 270/312/313/336/419 of the IPC, read with Sections 5(2)/5(3)/5(4) of the Medical Termination of Pregnancy Act, 1971, corresponding to GR No. 1794/2023.

3) The petitioner has submitted that one of the co-accused person of the case, namely, Mr. Mainul Hoque, has already been released on bail by the Court of learned Sessions Judge, Morigaon on 23.11.2023, who was arrested in the said case on 02.11.2023.

4) The petitioner also submitted that another arrested co-accused of the case, namely, Mijanur Rahman, was also granted bail in said Mikirbheta Police Station Case No.223/2023 by order dated 19.09.2024 passed by the learned Sessions Judge, Morigaon.

5) As such, the petitioner submitted that as the other arrested co-accused of the case have already been released on bail, he too should be considered for his pre-arrest bail.

6) It is also submitted by the petitioner that he is no way connected with this case and that he being the nephew of one of the FIR named accused persons, namely, Mainul Hoque (already released on bail), police is trying to him in said Mikirbheta Police Station Case No.223/2023.

7) The petitioner further stated that for the same reason, he was earlier arrayed in Morigaon Police Station Case No. 382/2023, in which, charge sheet has already been filed by the police and that allegation of said Morigaon P.S. Case No. 382/2023 is similar to that of the Mikirbheta Police Station Case No.223/2023 and therefore, he should be considered for his anticipatory bail in said Mikirbheta P.S. Case No.223/2023.

8) By order dated 13.09.2024, the Court called for the case dairy of Mikirbheta P.S. Case No.223/2023 and the case diary is up to 18.09.2024, with the notes of the concerned Investigating Officer of said Mikirbheta P.S. Case.

9) Perused the case diary of said Mikirbheta Police Station Case No.223/2023.

10) Case diary reveals that the arrested accused persons as well as the victims, in their statements made before the Investigating Officer of the case as well as in their statements recorded under Section 164 Cr.P.C before the concerned Magistrate, implicated the

petitioner with regard to his involvement in the alleged crime.

11) Case diary also reveals that in the pharmacy run by the petitioner, unwanted pregnancies were aborted by using machine wash. Moreover, large numbers of medicines and other equipments from the pharmacy of the petitioner at Kalikajari have been recovered that were installed without obtaining proper license from the authority concerned.

12) Case diary further reveals that the petitioner absconded after the arrest of Mainul Hoque in the case and as his involvement is seen in the case diary along with the evidence of the witnesses so far recorded by the concerned I.O. In his notes dated 16.09.2024 and 18.09.2024, the I.O of said Mikirbheta P.S. Case No.223/2023 clearly indicated the requirement of custodial interrogation of the petitioner to unearth many such illegal and un-authorised clinics in and around Morigaon, where illegal abortions, child birth and other surgeries are conducted in the illegal pharmacies and clinics.

13) Considering the incriminating materials available in the case diary, the Court is of the view that it is not a fit case to grant pre-arrest bail to the petitioner, namely, **Zinnatul Ali @Zinnatul Islam**, in said Mikirbheta Police Station Case No.223/2023.

14) Accordingly, this pre-arrest bail application stands rejected.

15) Return the case diary herewith.

JUDGE

Comparing Assistant