

GAHC010210172024



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

Case No. : AB/2697/2024

HABIBUL ISLAM
S/O MD. SHOHED ALI MOLLAH
VILL- BOALIA PT.I
P.O. HAZIRHA
P.S. SUKCHAR,
DIST. SOUTH SALMARA, MANKACHAR, ASSAM, PIN-783128

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A Z AHMED,

Advocate for the Respondent : PP, ASSAM, MR. M R SODIAL (INFORMANT)

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

30.10.2024

Heard Mr. H R A Choudhury, learned Senior Counsel assisted by Mr. A Z Ahmed, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2) Apprehending his arrest, the petitioner, namely, **Habibur Islam**, son of Md. Shohed Ali Mollah, Village-Boalia Pt-I, Police Station-Sukchar, District - South Salmara-Mankachar has filed this

application under Section 438CrPC /482 BNSS, 2023 praying for his pre-arrest bail in Silchar Police Station Case No. 804/2024 registered under Sections 120(B)/406/418/420/498(A)/506 IPC read with Section 4 of the Dowry Prohibition Act.

3) As per the FIR lodged by the informant before the Officer-in-Charge of Silchar Sadar Police Station on 06.09.2024 the case is that the petitioner is a police constable and a Government employee of the State and that the accused petitioner committed fraud and cheated her and without disclosing about his first marriage, entered into a relationship with her and then married her on 11.12.2020 before the Sadar Quazi, Kamrup at Hatigaon, Guwahati, pertaining to which Marriage Certificate dated 11.12.2020 was issued to them by the Office of the Muslim Marriages & Divorces Registrar, Sadar Quazi, Kamrup (Assam), Hatigaon, Guwahati.

4) Thereafter, the accused petitioner and the informant were socially married on 06.03.2021 and lived together as husband and wife and that out of their wedlock, a girl child was born to them on 16.06.2022.

5) It is also submitted by the informant that the accused petitioner demanded dowry from her and because of compelling situation, a new two-wheeler Bajaj Pulsar Bike was purchased by her family members on instalment basis and gave it to the accused petitioner. On completion of payments of the instalments made by her family members, registration of said two-wheeler Bajaj Pulsar Bike was issued in the name of the accused petitioner.

6) The informant/complainant in her FIR also alleged that while she was pregnant for about six months, then only she and her family could come to know that the accused petitioner is already married to one Anjuara Begum and out of their wedlock they have a daughter, who is about 4 to 5 years old and when she confronted with the accused petitioner about it, he misbehaved with her and mentally tortured her and thereafter, being annoyed, left her alone and managed for his transfer to Silchar Police Reserve.

7) Thereafter the accused petitioner took his transfer to Bandikana Outpost and since then, he avoided the informant/complainant and neither looked after her nor their minor daughter.

8) In the said FIR dated 06.09.2024, the informant/complainant also stated that a Court passed an order granting maintenance to his first wife Anjuara Begum, amounting to Rs. 8,500/- per month, payable by the accused petitioner and to avoid such burden of paying monthly maintenance, the accused petitioner reconciled with his first wife, brought her back to her

matrimonial home, i.e., to his parental home and that he is now living conjugal life with his said first wife, while defrauding and cheating the informant/complainant.

9) It is also alleged in the FIR that when the informant/complainant called upon the accused petitioner, he demanded Rs. 50,00,000/- from her to give divorce to his first wife and that the accused petitioner from his mobile sent messages to her phone with foul language and also threatened her of dire consequences.

10) Accordingly, said FIR of the informant/complainant dated 06.09.2024 was registered as Silchar P.S. Case No. 804/2024 under Sections 120(B)/ 406/418/420/498(A)/506 IPC read with Section 4 of the Dowry Prohibition Act.

11) Perused the case diary produced before the Court by Mr. Parashar, learned Additional Public Prosecutor, Assam relating to said Silchar P.S. Case No. 804/2024.

12) It is seen from the case diary that the concerned Investigating Officer of said Silchar P.S. Case has already seized the Marriage Certificate of the accused petitioner with the informant/complainant dated 11.12.2020; their Social Marriage Certificate dated 06.03.2022; the Birth Certificate of their minor daughter dated 01.08.2022 issued vide Registration No. 329/2022 as well as the relevant documents relating to the Bajaj Pulsar Bike given as dowry by the family members the informant/complainant to the accused petitioner including copy of its Registration Card as well as Insurance Certificate, intercepted the threatening messages sent by the accused petitioner to the informant/complainant and also the statements of the witnesses acquainted with the case, so far recorded under section 180 BNSS by the Investigating Officer of said Silchar P.S. Case.

13) From the case diary it is also seen that the independent witnesses implicated the petitioner with regard to his involvement in the alleged crime pertaining to said Silchar P.S. Case No. 804/2024.

14) Further, it is also seen that in spite of issuance of notice, the concerned witnesses with regard to the marriage of the accused petitioner with the informant/complainant from the side of the accused petitioner did not appear before the concerned Investigating Officer of said Silchar P.S. Case.

15) Finding all such materials 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, named above.

16) Accordingly, this pre arrest bail application of the petitioner, **Habibur Islam**, son of Md. Shohed Ali Mollah in said Silchar P.S. Case No. 804/2024 stands rejected.

17) Return the case diary herewith.

JUDGE

Comparing Assistant