

GAHC010232762024



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

Case No. : AB/2922/2024

MOTIBUR RAHMAN
S/O MD. JAHER ALI
R/O SARU RABHA ATI,
P.S. DHING
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR F HAQUE, MR A ISLAM, MR. S K M ALOMGIR

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 29.11.2024

Heard Mr. F. Haque, learned Counsel appearing for the petitioner. Also, heard Mr. D. P. Goswami, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of BNSS, 2023 seeking pre-arrest bail to the petitioner, i.e. Motibur Rahman who is apprehending arrest in connection with P.R. Case No.1254/2022, registered under Section 143/323/352/302 of IPC arising out of Dhing P.S. case No.52/2020, pending in the Court of Sub-Divisional Judicial Magistrate (S), Nagaon.
3. The case of the prosecution is that since 2(two) years, the accused persons were using the informant's motor pump and have refused to pay the hiring charges. Accordingly, on 09/02/2020 when the accused persons had come to the paddy field, the informant refrain them from using the said motor pump. However, later on at around 9 P.M. when the informant was returning home after closing his shop, the petitioner along with the co-accused persons stopped and threatened him and next day at around 9.30 PM, the co-accused no. 11 interrupted him and got him down from his motorcycle and after the informant left the said accused no. 11 along with the co-accused persons including the petitioner came with dao, lathi, etc and by seeing the father of the informant standing in front of the house they assaulted him. The younger brother of the informant was also alleged to have been assaulted. The informant's

father who was assaulted grievously in the forehead ultimately succumbed to the injury and died. Accordingly, a case was registered and after completion of investigation charge-sheet was submitted on 30.11.2020.

4. Mr. F. Haque, learned Counsel for the petitioner submits that the petitioner is willing to surrender himself and appear before the trial Court. Mr. D.P. Goswami, learned Additional Public Prosecutor, strongly opposes the prayer for bail and submits that the accused/petitioner have been absconding since the date of occurrence and the materials collected implicates the accused for the offence alleged.
5. I have considered the submission made at the bar and perused the material available on record.
6. The allegations are of grave and serious in nature. Considering the fact that the accused persons have been absconding since the date of occurrence, i.e. 10.02.2020, this Court is not inclined to grant anticipatory bail to the petitioner. However, as per the endorsement made by the learned Counsel for the petitioner Mr. F. Haque, this Court deems appropriate to dispose of the anticipatory bail application by directing the petitioner to appear before the jurisdictional trial Court, and as and when the petitioner appears before the jurisdictional trial Court, the learned trial Judge shall consider the prayer for bail in accordance with law.

- 7.** Ordered accordingly.
- 8.** The anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant