

GAHC010250842023



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

Case No. : AB/3826/2023

DEBAJIT GOGOI
S/O SRI UPENDRA NATH GOGOI
R/O LAWKUTH
PO. BATAMARI
P.S. GHILAMARA
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T K BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

03.01.2024

Heard Mr. T.K. Bora, learned counsel for the applicant and also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Dhakuakhana P.S. Case No.126/2023,

under Section 448/376/511/307/325 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Debajit Gogoi, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Hira Chamuah on 22.10.2023. The essence of allegation made in the aforesaid FIR is that on 20.10.2023 one boy came to his aunt's house and attempted to commit rape upon her and also attempted to commit murder and in the process he caused multiple injuries on her person with the key of his bike.

4. Mr. Bora, learned counsel for the applicant submits that the applicant and the son of the victim are friends and they went for fishing and then the applicant returned home without informing the son of the victim, then the victim alleged that the applicant had killed her son and that in fact no such incident, as alleged in the FIR, had ever taken place and therefore, it is contended to allow this petition.

5. On the other hand, Mr. B.B. Gogoi, learned Additional Public Prosecutor submits that though case diary was called for, the same has not been received and as per his instruction, the I.O. has completed investigation and submitted charge-sheet, being Charge-sheet No.54/2023 dated 30.09.2023, under Section 448/354/325/307 IPC.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record. And considering the submission of the learned Advocates both sides, this Court is inclined to dispose of this petition by directing the applicant to appear before the learned Sub-Divisional Judicial Magistrate(M), Dhakuakhana, on or before 22.01.2024 and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. Till then, this Court is inclined to extend interim protection to the applicant. And it is provided that in the event of arrest of the applicant, namely, Debajit Gogoi, in connection with Dhakuakhana P.S. Case No.126/2023, under Section 448/376/511/307/325 IPC, he shall be enlarged on pre-arrest bail on his executing a bond

of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) The applicants shall not leave the jurisdiction of the learned S.D.J.M.(M), Dhakuakhana, without prior permission.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant