

GAHC010260082024



2024:GAU-AS:12404

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

Case No. : AB/3222/2024

KHALIL ULLAH
S/O SAFI ULLAH
R/O VILL- DAKHINGAON
P.S. DISPUR,
P.O. KAHILIPARA,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI, MR. MUSTAFA HUSSAIN, MR H A AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

09.12.2024

1. Heard Mr. R. Ali, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor appearing for the State of Assam.

2. This application under Section 482 of the BNSS, 2023 has been filed by the petitioner, namely, Khalil Ullah, who is apprehending his arrest in connection with Dispur P.S. Case No. 1270/2024, under Section 329(3) / 117(2)/74 of BNS, 2023.

3. The gist of accusation in this case is that the victim herself has lodged an FIR, before the In-Charge of Bhagaduttapur Police Out Post, on 28.11.2024, *inter alia*, alleging that the first informant had borrowed a sum of Rs. 1,00,000/- (Rupees One Lakh) from the present petitioner and used to repay the same in installments, however, as the informant failed to pay the amount, it is alleged that the petitioner went to the shop of the informant and physically assaulted her due to which she sustained injuries.

4. The learned counsel for the petitioner has submitted that though the instant case has been registered under three Section of Bharatiya Nyaya Sanhita, 2023. However, two of the Section, namely, 329(3) and 117 (2) are bailable, whereas, Section 74 is non-bailable. He submits that in the FIR, no ingredients of any alleged offence regarding outraging the modesty of the informant has been made out.

5. The learned counsel for the petitioner also submits that the FIR has been lodged for settling the course as the informant has failed to repay back the loan which she took from the petitioner.

6. On the other hand, learned Additional Public Prosecutor submits that considering the nature of the allegations levelled in the FIR, custodial detention of the petitioner may not be necessary for fair completion of the investigation.

7. Considering the submissions made by the learned counsel for both the sides, this anticipatory bail application is disposed of with a direction to the petitioner to appear before the Investigating Officer of Dispur P.S. Case No. 1270/2024, within a period of 10(ten) days from the date of this order and co-operate in the investigation. If he does so within the stipulated period of time, in the event of his arrest in connection with the aforesaid case, he shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority with following conditions that:-

- (i)** the petitioner shall co-operate in the investigation; and
- (ii)** the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

8. This bail application is accordingly disposed of.

JUDGE

Comparing Assistant