

GAHC010264542023



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

Case No. : AB/3991/2023

DIGANTA DAS
S/O ATUL DAS
VILL- BISHNUPUR, NADIRPAR
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.01.2024

Heard Mr. N. Uddin, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely,

Diganta Das, who has been apprehending arrest in connection with Hajo P.S. Case No.615/2023, under Section 365 of the IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Dipanjali Kalita on 13.10.2023. The essence of allegation made in the aforesaid FIR is that on the night of 13.10.2023, at about 2:00 a.m. her daughter Miss X (name withheld), aged 14 years, missing from her room and later on, she came to know that one Diganta Das has kidnapped her daughter.

4. Mr. Uddin, learned counsel for the applicant submits that the victim girl, at her own will eloped with the applicant and thereafter, the family members of the applicant informed the parents of the victim girl and as the family members of the victim girl did not respond, then she was handed over at police station and that the applicant is no way involved with the offence alleged in the FIR and he is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the age of the victim girl at the relevant point of time was 14 years and as per her statement under Section 164 Cr.P.C., she has eloped with the applicant voluntarily.

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 also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. In view of the materials collected so far in the case diary, specially the statement of the victim girl recorded under Section 164 Cr.P.C., this Court is of the view that a case for granting the privilege of pre-arrest is made out. Accordingly, it is provided that in the event of arrest of the applicant, namely, Diganta Das, in connection with Hajo P.S. Case No.615/2023, under Section 365 of the IPC, he shall be released 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 applicant shall not leave the jurisdiction of the learned Judicial Magistrate First Class, Hajo, without prior permission

8. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

9. Since the case diary has been produced before this Court, personal appearance of the I.O. is hereby dispensed with.

Sd/- Robin Phukan
JUDGE

Comparing Assistant