

GAHC010274812023



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

Case No. : AB/4119/2023

RAKESH SARKAR
S/O LT. GOPAL SARKAR
R/O VILL- CHOURAGURI, P.O. GORAIMARI, P.S. AND DIST. BONGAIGAON,
ASSAM,
PIN-783390

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

22.01.2024

Heard Mr. S.C. Biswas, learned counsel appearing for the petitioner. Also heard Mr. K.K. Parasar, learned Addl. P.P., Assam appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioner, namely **Rakesh Sarkar** in connection with **Bongaigaon P.S. Case No.489/2023** under Sections **326/307/511** of the IPC.
3. The case diary as called for is placed before the Court.
4. The case of the prosecution, in brief, is that on 07.11.2023, the petitioner along with two other accused persons assaulted one Dipak Sarkar and Bishnu Chouhan. Accordingly, a case was registered.
5. Mr. S.C. Biswas, learned counsel for the petitioner submits that the FIR is totally false and has been filed as there was a family dispute between the petitioner and the informant's family. He further submits that during lakhi puja mela the injured persons were all engaged in drinking party in a festive mode and had sustained injuries while riding motorbike.
6. Mr. K.K. Parasar, learned Addl. P.P fairly submits on the basis of the case diary that during investigation the investigating officer has not found anything adverse against the petitioner. He further draws attention of this Court to the finding of the investigating officer on the basis of statement recorded to the effect that the petitioner along with two injured persons while riding a motorbike were assaulted by one Baluram Mandal.
7. I have considered the submissions made at the bar and perused the materials available on record including the case diary placed before this Court.
8. It appears from the statement of one of the injured person, namely Dipak Sarkar that the petitioner has not inflicted any injury to him and to his friend, namely Bishnu Chauhan and in fact, the petitioner and the two of them while riding motorbike were assaulted by one Baluram Mandal and hence, the

petitioner is innocent.

9. Considering the facts and circumstances of the case as stated above, this Court is of the opinion that the petitioner may be granted the privilege of pre-arrest bail.

10. Accordingly, it is provided that in the event of arrest, the petitioner, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 15,000/- (Rupees Fifteen Thousand)** with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 10 days, failing which on and from the 11th day this pre-arrest bail order shall have no force; and
- (ii) That the petitioner 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.

11. Return the case diary.

12. This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant