

GAHC010277432023



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

Case No. : AB/4147/2023

RAHUL SAIKIA
S/O DUTIRAM SAIKIA,
VILL.- WARD NO. 6, JYOTI NAGAR, ARADHAL, P.S.- DHEMAJI, P.S.-
DHEMAJI, DIST.- DHEMAJI, ASSA, PIN- 787057.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : B KHAKHLARY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26.02.2024

Heard Ms. L. Choudhury, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Dispur P.S. Case No. 2215/2023, under Section 302 of the Indian Penal Code.

The Case Diary has been received, however the FSL report is not available in the Case Diary though on the last occasion the FSL report was also called for and the case was fixed today for perusal of the Case Diary as well as the FSL report.

It is submitted by Ms. Choudhury, learned counsel for the petitioner, that the petitioner is innocent and he is no way connected with the alleged offence. It is a fact that he had a love relationship with the deceased and they were supposed to get married. Though, prior to the incident, he came to Guwahati and stayed with her for some time, but thereafter he went to Dhemaji and the incident took place while he was at Dhemaji. After receiving a phone call from the I.O., he already appeared before the I.O. and cooperated in the investigation of the case. His statement is also recorded under Section 161 Cr.P.C. by the I.O. He is still ready and willing to cooperate with the I.O. in the further investigation of the case if he is granted with the privilege of pre-arrest bail.

In this context, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that one Jun Borah, who is the prime suspect of this case, along with the house owner of the deceased as well as the present petitioner are also suspected in connection with this case. However, he submitted that on the day

of incident, the petitioner was not a Guwahati but at Dhemaji. But, prior to the incident, while he was at Guwahati, some altercation took place between the deceased and the petitioner as he refused to marry her stating that she has love relationship with some other boys. However, that apart, there is no such incriminating materials against the present accused/petitioner in the Case Diary.

Considering the submissions of learned counsels of both sides and also considering the fact that the accused has already appeared before the I.O. and cooperated in the investigation of this case and further considering the materials available in the Case Diary, I find that custodial interrogation of the present accused/petitioner is not necessary at this stage and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Shri Rahul Saikia, in connection with Dispur P.S. Case No. 2215/2023, under Section 302 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant