

GAHC010277522023



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

Case No. : AB/4142/2023

ASARUL MOLLAH @ ASHARUL ISLAM MOLLAH
S/O SUKUR ALI MOLLAH @ ABDUS SUKUR MOLLAH
R/O VILL- TUMNI LAWKHOWA
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR Z ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 04.01.2024

Heard Mr. Z. Alam, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with South Salmara-Mankachar P.S. Case No. 292/2023, under Sections 304(B)/34 of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Asarul Mollah @ Asharul Islam Mollah 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 Ramesh Uddin on 02.10.2023. The essence of allegation made in the FIR dated 02.10.2023, is that his daughter Saina Khatun got married with one Akirul Mollah about 6 years back and she was blessed with two children and that his daughter informed him that she was subjected to physical torture by Akrimul Mollah, Asarul Mollah, Sukur Ali Mollah, Horiman Bibi, Habil Mollah and Kabil Mollah. On 01.10.2023, his wife Jamila Begum went to the house of the accused persons to take their daughter back, but, the accused persons did not allow her to accompany his wife. Thereafter on 02.10.2023, at about 6 a.m. in the morning, Sukur Ali Mollah informed him that his daughter committed suicide and that she had been taken to Fulbari Hospital. Thereafter, he went to the hospital and found her daughter dead.

4. Mr. Alam, learned counsel for the applicant submits that the applicant is a practicing Advocate of South Salmara Bar Association and that he is no way involved in the offence alleged in the FIR, and the main suspect in the case is the husband and father-in-law of the victim and both of them were arrested by police and forwarded to jail hazot on 03.10.2023. Therefore, Mr. Alam has contended that the privilege of pre-arrest bail may be extended to the applicant.

5. Mr. B. Sarma, the learned Addl. Public Prosecutor, on the other hand, has produced the case diary before this Court and submits that the allegations are primarily against the father-in-law and husband of the victim and both of them were arrested by police and forwarded to jail hazot.

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. B. Sarma, learned Addl. Public Prosecutor.

7. It appears from the Annexure I, at page 10 of the petition, that the applicant is a practicing Advocate and that the case diary indicates that the main suspect of the case is the husband and father-in-law of the victim and both of them had been arrested by police and forwarded the jail hazot vide Annexure III, page 17 of the petition.

8. In view of the materials collected so far in the case diary, specially the note of the I.O., dated 17.10.2023, and further considering the fact that material part of the investigation is almost completed and there remains to collect the FSL report only, this Court is inclined to allow the petition.

9. It is provided that in the event of arrest of the applicant in connection with South Salmara-Mankachar P.S. Case No. 292/2023 under Sections 304(B)/34 of the IPC, he shall be released on pre-arrest bail on executing a bond of Rs. 50,000/- with one surety of 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 C.J.M., South Salmara without prior permission.

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

11. Case diary may be returned.

JUDGE

Comparing Assistant