

GAHC010295412023



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

Case No. : AB/4377/2023

HAFIZUR RAHMAN
S/O MUKTAR ALI
R/O TAPESWARA
P.O. BALAGAON
P.S. KALGACHIA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.01.2024

- 1.** Heard Mr. S. Islam, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Hafizur Rahman, who is apprehending his arrest in connection with Kalgachia P.S. Case No. 186/2023 registered under Sections 417/376/366/342/34 of the Indian Penal Code.

3. The gist of accusation in this case is that on 20.12.2023, one Mozammel Hussain had lodged an FIR before the Officer-in-Charge of Kalgachia Police Station, *inter-alia*, alleging that the present petitioner by giving a false assurance of marriage to the sister of the first informant made forceful physical relationship with her and on 10.12.2023, the present petitioner called the sister of the first informant to Bamuntari near the bridge of Beki river under Kalgachia Police Station and since then the sister of the first informant was missing and later on it came to the knowledge of the first informant that the present petitioner had abducted the sister of the first informant.

4. Learned counsel for the petitioner has submitted that the allegations levelled against the present petitioner in the FIR are not true. It is submitted by the learned counsel for the petitioner that about five months ago the informant's family made a proposal to the petitioner to marry the sister of the informant. However, when the family members of the present petitioner refused the said proposal, the informant's family members insisted on solemnisation of marriage of the petitioner with the sister of the first informant.

5. It is also submitted by learned counsel for the petitioner that thereafter on 10.12.2023, the sister of the first informant along with her family members came to the paternal house of the present petitioner and threatened them that unless the marriage of the petitioner is solemnised with the sister of the first informant they would falsely implicate the present petitioner in some case and will send him to the jail. On this, the present petitioner had filed a complaint before the Additional District Magistrate, Barpeta to initiate a proceeding under

section 107 of Code of Criminal Procedure, 1973.

6. Learned counsel for the petitioner has submitted that the present petitioner is a Government servant working as Assistant Teacher and he is ready to cooperate in the investigation.

7. On the other hand, learned Additional Public Prosecutor has produced the case diary of Kalgachia P. S. Case No. 186/2023 and has submitted that from perusal of the materials in the case diary including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, 1973, it appears that the present petitioner and the victim girl were in a relationship for last one year and the victim girl used to go to the petitioner's house whenever he used to call her and on 10.12.2023 also the victim girl went to the house of the petitioner on being called by the petitioner and she herself stayed there for a few days.

8. I have considered the submissions made by the learned counsel for both sides and perused the materials available on record including the case diary of Kalgachia P.S. Case No. 186/2023 .

9. Since it appears from the record that the petitioner and the victim girl were in relationship for last one year and on the date of the alleged offence, the victim herself went to the petitioner on being called by the petitioner, this Court is of the considered opinion that if the petitioner cooperates in the investigation his custodial detention may not be necessary for fair completion of the investigation.

10. Hence, the present petitioner namely, Hafizur Rahman is hereby directed to appear before the Investigating Officer of Kalgachia P.S. Case No. 186/2023 within a period of ten working days from the date of this order and cooperate in the investigation. If he does so within the stipulated period of time, in the event

of his arrest in connection with Kalgachia P.S. Case No. 186/2023, the above named above shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the conditions:-

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

11. With the above observations, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant