GAHC010153652020

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

Case No. : AB/3060/2020

CHANDAN PEGU
S/O SRI BIREN PEGU, R/O VILL-MECHAKI TONGANI, P.O. AND P.S.-SILAPATHAR, DIST-DHEMAJI, ASSAM, PIN-786110

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO

ORDER

Date : 27-11-2020

Heard Mr. D. Baruah, learned counsel for the petitioner as well as Mr. P. Goswami, learned Additional Public Prosecutor, State of Assam. Also heard Mr. S.S. Bora, learned counsel appearing for the complainant.

On 03.09.2020, Smti Erina Doley Pegu submitted a complaint to the Officer In-Charge of Silapathar Police Station stating that, as a consequence of their love affair for the last 5

years she and the petitioner got married and registered the same before the competent authority on 09.09.2019. And following the marriage they started living conjugal life but destroying the sanctity of the same the petitioner got married again with another woman, and, as if that is not enough he also threaten her in different ways. On receiving the complaint, Silapathar Police Station registered the FIR case. Being apprehensive of arrest in connection with the FIR the petitioner is before this Court praying for anticipatory bail.

Learned counsel for the petitioner submitted that the petitioner and the complainant were never married as they are close relatives and he never did any harm to the complainant as charged in the FIR. Therefore, the complaint is concocted and without any basis. As such, the petitioner may be granted anticipatory bail in order to protect him from unnecessary harassment. The learned counsel also submitted that among the offences charged against the petitioner only the offences punishable under Section 498(A) and 420 IPC are non-bailable but there is no accusation or charge in the FIR which would show that the offences have been committed by the petitioner. Hence, the petitioner deserves to be granted pre-arrest bail.

Learned Addl. P.P. and the learned counsel representing the complainant submitted that the marriage certificate issued by a competent authority which is in the Case Diary shows that the petitioner and the complainant were married and as per admission of the learned counsel for the petitioner, he is married to another woman. Therefore, there is strong prima facie showing that the petitioner had committed the offence charged against him. The learned Addl. P.P. also submitted that the petitioner had appeared before the I.O. of the case and his statement has been recorded.

The documents clearly shows that the petitioner was married to the complainant. However, on careful reading of the complaint and the Case Diary of the case there is nothing which would show that the complainant was threatened in any way by the petitioner as alleged. Therefore, the only offence which would be attracted appears to be the one given in Section 494 of IPC which is bailable offence and the offence punishable under Section 498(A) which is non-bailable offence but punishable for 3 years with fine only. Therefore, the prayer of the petitioner is allowed and accordingly, the order dated 02.11.2020 with all the conditions given therein is made absolute.

The anticipatory bail application is disposed of accordingly.

Return the Case Diary.

JUDGE

Comparing Assistant