GAHC010167742020

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

Case No. : AB/3373/2020

MD. HAIJAN ALI
S/O ABDUL GANI, R/O NATUN KATHMI, P.S. BOKO, DIST- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

18-12-2020

Heard Mr. B. Chowdhury, learned counsel for the petitioner and Mr. H. Sarma, learned Additional Public Prosecutor, Assam for the State.

By this application filed under Section 438 Cr.P.C. the petitioner, namely, **Md. Haijan Ali**, is seeking pre-arrest bail in connection with Chhaygaon Police Station Case No. 366/2020 corresponding to G.R. Case No. 591(K)/2020 registered under Section 409 IPC.

The petitioner is the Secretary of No. 11, Achalpara Gaon Panchayat and an FIR named accused in said Chhaygaon P.S. Case No. 366/2020.

Earlier the petitioner obtained interim pre-arrest bail in said Chhaygaon P.S. Case No. 366/2020 vide order dated 27.08.2020 passed in AB No. 2044/2020. However, on perusal of the case diary, the pre-arrest bail prayer of the petitioner was rejected on 18.09.2020 in AB No. 2044/2020 recalling the interim order dated 27.08.2020 passed in the said proceeding.

Petitioner has preferred this application again for his pre-arrest bail in said Chhaygaon P.S. Case No. 366/2020 stating that the co-accused of the case have already been released on bail.

By order dated 08.12.2020, Mr. Sarma, learned Additional Public Prosecutor, Assam was directed to obtain necessary instructions from the concerned Investigating Officer of the case as to whether custodial detention of the petitioner is required to investigate the said Chhaygaon P.S. Case or not.

Today, Mr. Sarma, learned Additional Public Prosecutor, Assam has placed a communication dated 18.12.2020 of the concerned Investigating Officer of said Chhaygaon P.S. Case No. 366/2020 namely, Sub-Inspector, (UB) Ramakanta Borah, In-charge of Jorshimuli Police Out-Post stating that as the petitioner appeared before the concerned Investigating Officer of the case with a pre-arrest bail order passed by this Court and he has already been interrogated and released on bail in connection with said Chhaygaon P.S. Case No. 366/2020, his custodial detention is not required for further investigation of the case.

After hearing the learned counsels for the parties and considering the note of the Investigation Officer of the said case, the Court is of the view that custodial detention of the petitioner, **Md. Haijan Ali** is not warranted to investigate the said Chhaygaon P.S. Case No. 366/2020. As such, the pre-arrest bail prayer of the petitioner, named above is accepted.

Accordingly, in the event of arrest of the petitioner, namely, **Md. Haijan Ali** in said Chhaygaon P.S. Case No. 366/2020, he shall be released on bail on furnishing a bail bond of Rs.30,000/- with 2 (two) local sureties of the like amount to the satisfaction of the arresting authority, subject to the conditions that the petitioner, named above **(i)** shall appear before the concerned Investigating Officer of said Chhaygaon P.S. Case No. 366/2020, **on or before 29.12.2020** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of said Chhaygaon Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case and **(iv)** 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 them from disclosing such facts to the Court or to any police officer.

Any violation of any of the aforesaid terms and conditions by the petitioner, named above, pre-arrest bail granted to him in said Chhaygaon P.S. Case No. 366/2020, shall stand automatically vacated.

With the aforesaid observations and direction, this pre-arrest bail application stands allowed to the extent above.

JUDGE

Comparing Assistant