GAHC010226392026

2026:GAU-AS:15231

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

Case No. : AB/2583/2026

SAIDUL ISLAM SAIKIA
S/O MER HUSSAIN SAIKIA, R/O NO 2 SARUDAM PUR, PS HAJO, DIST KAMRUP, ASSAM, PIN 781102

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. T SOM, MS. A MAHANTA,MR. U HAZARIKA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

09.10.2026

Heard Ms. T. Som, learned Counsel for the petitioner. Also heard Mr. B. Sarma, learned Addl. P.P for the State of Assam.

2. This is an application under Section 482 of the BNSS, 2023, praying for granting temporary or transit pre-arrest bail to the accused/petitioner, namely, **Saidul Islam Saikia** in connection with the E-FIR No.0426/2026 dated 14.07.2026**, registered at Police Station Cyber, South-East Delhi, Delhi under Sections 318(4)/319/340 of BNS, 2023.**

3. The learned counsel for the petitioner has submitted that the petitioner has been issued a notice dated 27.09.2026 by the Investigating Officer of Cyber/SED PS, New Delhi, to appear before the aforesaid officer on 15.10.2026 at 11:00 AM. The learned counsel for the petitioner has submitted that the petitioner has received the notice on 02.10.2026 and it may not be possible for the petitioner to report before the aforesaid Officer within the timeframe given. She has submitted that the petitioner is eager to participate in the investigation process. However, the petitioner apprehends that he may be arrested in the event he appears before the officer concerned. Accordingly, he has submitted that the petitioner may be allowed the privilege of an interim transit bail to enable him to participate in the investigation process.

4. The learned Addl. P.P has submitted that notice to the investigating authority is required as per the judgment delivered by the Supreme Court in ***Priya Indoria vs. State of Karnataka,*** and Others reported in ***(2024) 4 SCC 749***, where the Apex Court has held as follows:

> *93.1. Prior to passing an order of limited anticipatory bail, the investigating officer and public prosecutor who are seized of the FIR shall be issued notice on the first*

date of the hearing, though the Court in an appropriate case would have the discretion to grant interim anticipatory bail.

93.2. The order of grant of limited anticipatory bail must record reasons as to why the applicant apprehends an inter-state arrest and the impact of such grant of limited anticipatory bail or interim protection, as the case may be, on the status of the investigation.

93.3 The jurisdiction in which the cognizance of the offence has been taken does not exclude the said offence from the scope of anticipatory bail by way of a State Amendment to Section 438 of CrPC.

93.4 The applicant for anticipatory bail must satisfy the Court regarding his inability to seek anticipatory bail from the Court which has the territorial jurisdiction to take cognizance of the offence. The grounds raised by the applicant may be -

a) a reasonable and immediate threat to life, personal liberty and bodily harm in the jurisdiction where the FIR is registered;

b). the apprehension of violation of right to liberty or impediments owing to arbitrariness;

c. the medical status/ disability of the person seeking extra-territorial limited anticipatory bail.

94. It would be impossible to fully account for all exigent circumstances in which an order of extra-territorial anticipatory bail may be imminently essential to safeguard the fundamental rights of the applicant. We reiterate that such power to grant extra-

territorial anticipatory bail should be exercised in exceptional and compelling circumstances only, which means where denying transit anticipatory bail or interim protection to enable the applicant to make an application under Section 438 of CrPC before a Court of competent jurisdiction would cause irremediable and irreversible prejudice to the applicant. The Court, while considering such an application for extra-territorial anticipatory bail, in case it deems fit, may grant interim protection instead for a fixed period and direct the applicant to make an application before a Court of competent jurisdiction.

5. Accordingly, he has prayed that the interim relief to the petitioner may not be considered at this stage.

6. I have heard the learned counsel for the petitioner and the learned Addl. P.P representing the State of Assam.

7. Notice to the I/O and the Public Prosecutor, who are seized of the investigation, can be dispensed with in the present case, as in the opinion of this Court, resorting to the same at this stage is likely to cause further delay in the investigation, as the said officials are in distant Delhi. Therefore, I find the present case to be an appropriate one to exercise the discretion to grant interim protection for a fixed period and to direct the petitioner to make an application before the Court of competent jurisdiction, as otherwise, there is a scope for causing irremediable and irreversible prejudice to the applicant.

8. Accordingly, it is directed that in the event of the arrest of the petitioner, namely, **Saidul Islam Saikia**, within 30.10.2026 in connection with the aforesaid case, he shall be released on **transit bail** on execution of personal bond of **Rs.10,000/- (Rupees Ten Thousand only)** with one surety of the like amount to the satisfaction of the arresting authority.

9. It is made clear that the present interim protection in the form of transit bail has been granted to the petitioner only in order to enable him to approach the Court of competent jurisdiction for anticipatory bail on merits.

10. Anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant