

GAHC010012282024



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

Case No. : AB/164/2024

ASIFE MUSTAFA BARBHUIYA
S/O LATE MAINA MIA BARBHUIYA, CHANDIPUR PART-IV, P.S. ALGAPUR,
DIST. HAILAKANDI, ASSAM, PIN-788150

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. S B LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.02.2024

Heard Ms. D. Dutta, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent and Ms. S. Dey, learned counsel for the informant.

2. Apprehending arrest in connection with Dispur P.S. Case No.24/2024, under Section 323/342/354/365/506 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Asife Mustafa Barbhuiya, 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 Smt. X (name withheld) on 02.01.2024. The essence of allegation made in the aforesaid FIR is that the applicant was working as Human Resource Manager at Tebixa Technologies OPC Ltd., situated at Khanapara and Mr. Asife Mustafa Barbhuiya, who is the CEO/Director of Tebixa Technologies Company, subjected her to physical and mental harassment by slapping her inside the office cabin and used to confine her in office room and also torn her cloths and threatened to kidnap her.

4. Ms. Dutta, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant vide order dated 22.01.2024 and pursuant to the said order, he had appeared before the I.O. and cooperating with the investigating agency and therefore, it is contended to make the interim order dated 22.01.2024, absolute, in the same terms and conditions.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the applicant had appeared before the I.O. and cooperating with the investigating agency and the I.O. has collected some materials in support of the allegation made in the FIR.

6. Whereas, Ms. Dey, learned counsel for the informant submits that the privilege of pre-arrest bail may not be extended to the applicant since he has been continuously publishing photographs threatening the applicant to make some more photographs and videos viral in the social media.

7. 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. Lahkar, learned Additional P.P. and also perused the objection petition filed by the learned counsel for the informant.

8. It appears that the applicant has been granted the privilege of interim pre-arrest bail vide order dated 22.01.2024, and it is the categorical statement of the counsel for the applicant that pursuant to the said order, he had appeared before the I.O. and cooperating with the investigating agency. And producing the case diary before this Court, Mr. Lahkar also confirmed appearance of the applicant before the I.O. concerned. Although the learned counsel for the informant submits that the applicant has been threatening the informant and continuously publishing some more photographs and videos in the social media, yet, the learned counsel for the informant has failed to show that after granting of the privilege of interim pre-arrest bail vide order dated 22.01.2024, the applicant has been doing the same. Mr. P.S. Lahkar, learned Additional P.P. on the other hand submits that there is no reference in that regard in the case diary.

9. Having considered above, and also considering the fact that the applicant has been cooperating with the investigating agency and also considering the nature and gravity of the offence, this Court is inclined to make the interim order dated 22.01.2024, absolute, in the same terms and conditions. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant