

GAHC010088432021



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

Case No. : AB/1496/2021

MD. MAINUL ISLAM
S/O MD. KHASNUR ALI, R/O MONAHKUCHI (MUSLIM CHUPA), P.O.-
MONAHKUCHI, P.S.-HAAJO, DIST-KAMRUP, ASSAM, PIN-781104

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S N TAMULI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 31.05.2021

- 1.** Because of Covid Pandemic situation, the Court proceedings are conducted through Video Conferencing.
- 2.** Heard Mr. S. N. Tamuli, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State of Assam.

3. This anticipatory bail petition under Section 438 Cr.P.C., has been filed by the petitioner seeking anticipatory bail apprehending arrest in connection with Hajo P.S. Case No. 237/2010 under Sections 417/376/294/506 of IPC read with Section 67 (A) of Information Technology Act, 2008.

4. The learned counsel for the petitioner submits that there was no enquiry made by the Police in respect of the petitioner and he was shown to be absconder in the Charge-sheet No. 71/21 dated 28.02.2021 filed before the Court of Judicial Magistrate, 1st Class, Hajo, Kamrup. The learned counsel for the petitioner submits that during the course of investigation by the Investigating Officer, the petitioner was already available but his presence was never sought for. However, in the charge-sheet which has been filed, has shown to be absconder. Having been aware of the charge-sheet being filed, the petitioner submits that a limited protection be granted to him to enable him to appear before the Court of Judicial Magistrate, 1st Class, Hajo, Kamrup and to pray for bail before the concerned court.

5. The learned Additional Public Prosecutor submits that since the allegations in the charge-sheet filed are serious, the petitioner be directed to appear before the concerned Magistrate and protection, if any, be granted only for a limited period till his appearance.

6. Having heard the learned counsels for the parties and upon due perusal of the pleadings, it is seen that in the charge-sheet which is filed by the Police, the Investigating Officer has categorically stated that several attempts were made to examine the victim's family as well as the accused but both the parties had disappeared from respective

residences and for the last ten years the addresses and the location of the accused as well as the victim are not known.

7. Considering the peculiar circumstances in the matter, the Anticipatory Bail petition is disposed of directing the petitioner to appear before the learned Court of Judicial Magistrate, 1st Class, Hajo, Kamrup within 15(fifteen) days from today, and during which period the petitioner shall not be arrested in connection with the aforesaid case.

8. The limited protection for 15(fifteen) days is granted to the petitioner to enable him to appear before the learned Court of Judicial Magistrate, 1st Class, Hajo, Kamrup and apply for bail before the Court.

9. The Anticipatory bail petitioner is, accordingly, disposed of.

JUDGE

Comparing Assistant