
(2021) 06 GAU CK 0027

In the Gauhati High Court

Case No : Anticipatory Bail No. 1523 Of 2021

Rafiquel Islam @ Bhaiti @ Rabikul Islam

APPELLANT

Vs

State Of Assam

RESPONDENT

Date of Decision : 02-06-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 325, 352, 379

Citation : (2021) 06 GAU CK 0027

Hon'ble Judges : Soumitra Saikia, J

Bench : Single Bench

Advocate : S Kakati

Judgement

Heard Mr. S. Kakati, learned counsel for the petitioner and Mr. D. Das, learned Addl. PP for the State/respondent.

By this petition under Section 438 Cr.P.C., the petitioner, namely, Rafiquel Islam @ Bhaiti @ Rabikul Islam has prayed for granting him pre-arrest bail,

apprehending arrest in connection with Jogighopa P.S Case No. 169/2021 under Sections 379/325/352/34 of the IPC.

This case was registered on the basis of an FIR dated 27.04.2021 lodged by the informant one Sahauddin Ahmed making allegations against the

petitioner as stated in the FIR.

The learned counsel for the petitioner submits that the petitioner is a driver by profession and he earns his livelihood by driving vehicles for transport of

various good as entrusted to him. In so far as the present case is concerned, the informant, Sahauddin Ahmed, who is the owner of the Brick Kiln at

Sedamari, had entrusted him with the responsibility to transfer bricks in his vehicle. In response to that the petitioner transported some bricks as

instructed by the informant. However, during the course of transactions, an amount of Rs. 10,000/- was stated to have been over paid to the informant

by the petitioner and inspite of several requests being made, the same was not returned by the informant. The learned counsel for the petitioner

submits because of the persistent requests made by the petitioner for the refund of Rs. 10,000/- from the informant, the present FIR has been lodged.

The learned counsel for the petitioner submits that in view of facts that the informant as the owner himself permitted the petitioner to transport the

bricks, there is no question of theft as alleged in the FIR. The other sections are bailable. The learned counsel for the petitioner submits that the

petitioner be granted protection from arrest in connected with the aforesaid Jogighopa P.S Case No. 169/2021.

The learned Addl. PP submits that the case diary be called for.

Upon hearing the learned counsels for the parties and upon perusal of the pleadings, let the case diary be called for.

In the mean time, it is provided that in the event of arrest of the petitioner, named above, he shall be released on interim pre-arrest bail, in connection

with the above noted case, upon furnishing a bail bond of Rs.15,000/- (Rupees Fifteen Thousand) only with one local surety of like amount to the

satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioner shall appear before the Investigating Officer within 7 days from today;

(ii) That the petitioner shall not hamper or tamper with the investigation in any manner;

(iii) That the petitioner 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 him from disclosing such facts to the Court or to any police officer; and

(iv) That the petitioner shall not leave the territorial jurisdiction of the Jogighopa without obtaining prior written permission from the concerned

Investigating Officer of the case.

If any of the conditions are found to be violated then the Investigating Officer shall be at liberty to seek cancellation of the interim bail granted to the

petitioner.

List on 13.07.2021.