

GAHC010092772023



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

**Case No. : AB/1556/2023**

SHRI SRINIVAS B V  
S/O VENKATESH G.V.,  
R/O 726/A, M.C. MODI STREET,  
RAJAJINAGAR,  
BANGALORE NORTH, BANGALURU-560010, KARNATAKA, CURRENTLY  
THE PRESIDENT OF YOUTH CONGRESS, INDIAN NATIONAL CONGRESS,  
NEW DELHI.

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. K N CHOUDHURY**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**04.05.2023**

Heard Mr. K.N. Choudhury, learned Sr. Counsel appearing for the petitioner. Also heard Mr. M. Phukan, learned Public Prosecutor, Gauhati High Court appearing for the State respondent.

2. This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely **Srinivas B.V.** apprehending arrest in connection with **Dispur P.S. Case No. 692/2023** under Sections **509/294/341/352/354/354A (iv)/506** of the IPC read with Section **67** of the Information Technology Act, 2000 (for short 'I.T. Act')
3. The case diary is placed before the Court.
4. An additional affidavit has been filed by the petitioner.
5. It may pertinently be mentioned that **Crl. Pet. No. 377/2023** under Section 482 Cr.P.C. filed by the petitioner praying, *inter-alia*, for quashing of the above noted case has been dismissed vide **Judgment and Order, dated 04.05.2023.**
6. The First Information Report (FIR) reveals the allegations that the informant/victim, is the former President of the Assam Youth Congress and the present petitioner is the President of Indian Youth Congress. It has been alleged that the petitioner has been persistently harassing the informant/victim woman mentally by way of sexist and slang words and also threatening her with dire consequences if she complained the same before the high office bearers of the Youth Congress. It is further alleged that when the alleged victim went to Raipur in the state of Chhattisgarh to attend the plenary session of the Congress Party held on 25.02.2023, she was received by one Bhupen Bora, the President of the Assam Pradesh Congress Committee (APCC) at Mayfair Hotel and met other high office bearers of the Congress party. At the entrance of the hotel when she came across the petitioner, he heckled her by holding her arms and also threatened her by using slang words. It is also alleged that despite complaining about the persistent unwarranted conduct of the petitioner on several occasions

to the high office bearers of the Congress Party, her complaint did not yield any result and as such, she lodged the instant FIR.

7. Mr. K.N. Choudhury, learned Sr. Counsel appearing for the petitioner, contends that the allegations levelled against the petitioner are completely false and *mala fide*. According to Mr. Choudhury, the ejarah has been lodged with an ulterior motive to malign the reputation of the petitioner and to avoid any litigation for making defamatory statements made by the informant on social media against him. Mr. Choudhury further submits that for the defamatory and scandalous remarks made by the informant victim on social media the Legal Cell of the Indian Youth Congress sent a Legal Notice of Defamation on 18.04.2023 and sought for immediate public apology and thereupon, immediately thereafter, on 19.04.2023 she lodged the FIR which is clearly an afterthought. Further, Mr. Choudhury submits, that on 20.04.2023, the President of the Assam Pradesh Congress Committee (APCC) has also issued a show cause notice to the informant as to why a disciplinary action shall not be initiated against her in this regard. It has been submitted that except Section 354 of the IPC, offences under the other provisions of the IPC as well as Section 67 of the I.T. Act are bailable in nature and the offence levelled under Section 354 of the IPC is prima facie alleged to have occurred in Raipur, Chhattisgarh which is beyond the territorial jurisdiction of Dispur Police Station, in view of mandate contained in Section 177 Cr.P.C. It is also submitted by Mr. Choudhury that perusal of the ejarah does not disclose an offence under Section 354 of the IPC against the petitioner. According to Mr. Choudhury, the offence under Section 67 of the I.T. Act cannot be read in isolation but, it has to be read with Section 77B of the I.T. Act inasmuch as the petitioner was never convicted for commission of an offence under Section 67 of the said Act. A perusal of the FIR, Mr. Choudhury

submits, would show that it is a fit case to grant the privilege of pre-arrest bail to the petitioner. Mr. Choudhury has drawn attention to the transcribed copy of the television media Interview, dated 18.04.2023, given by the informant, which was circulated on 19.04.2023 through reports of NDTV, India Today and Today NE on Youtube.

8. Opposing the pre-arrest bail application, Mr. M. Phukan, learned Public Prosecutor, submits that the petitioner had filed two pre-arrest bail applications before the learned Sessions Court in Bangaluru, Karnataka and both the said petitions have been rejected after appreciating the materials on the case diary. Mr. Phukan further submits that the petitioner was given the notice under Section 41A Cr.P.C. calling upon him to appear before the Officer-in-Charge of Dispur P.S. on 02.05.2023 at 11 a.m. However, Mr. Phukan submits, the petitioner has not complied with the said notice to avoid his apprehension of being arrested in connection with the aforesaid non-bailable offence under Section 354 of the IPC as per Section 41A(3) Cr.P.C. Mr. Phukan submits that the victim, in her statements recorded under Sections 161 and 164 Cr.P.C., has implicated the petitioner with the alleged offences. Therefore, Mr. Phukan submits, that the alleged offences, as a whole, being related to outraging the modesty of the informant woman, the privilege of pre-arrest bail may not be granted in favour of the petitioner.

9. A perusal of the statements of the victim woman under Sections 161 and 164 Cr.P.C., it is revealed that she has implicated the petitioner with the alleged offences. The alleged victim is aged about 35 years as it appears from the order, dated 21.04.2023, passed by the learned Addl. Chief Judicial Magistrate, Kamrup (M) at Guwahati in the said case, who recorded the statement of the victim under Section 164 Cr.P.C. after giving her a period of two hours for

reflection and thereafter, on being satisfied that 'she deposed voluntarily and without being under any pressure or influence from any side.'

10. The FIR appears to have been registered on 20.04.2023 after a preliminary enquiry was done by a Police Officer.

11. The investigation is at its nascent stage.

12. For the above stated reasons as well as consideration of the various pleas taken by the petitioner and the documents he filed, this Court is of the opinion that it is not a fit case to grant the privilege of pre-arrest bail to the petitioner. Accordingly, the pre-arrest bail application of the petitioner stands **rejected**.

Return the case diary.

This disposes of the anticipatory bail application.

**JUDGE**

*Anupam*

**Comparing Assistant**