
Mary Hasda Vs State Of Assam

Anticipatory Bail No. 1430 Of 2021

Court: Gauhati High Court

Date of Decision: June 24, 2021

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 438#Indian Penal Code, 1860 " Section 153A, 295

Citation: (2021) 06 GAU CK 0146

Hon'ble Judges: Manish Choudhury, J

Bench: Single Bench

Advocate: G Uddin

Final Decision: Disposed Of

Judgement

The Court proceedings have been conducted through remote video conferencing mode due to the prevailing situation in the State due to Covid-19

pandemic. Heard Mr. G. Uddin, learned counsel for the petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent

State of Assam.

By this application under Section 438, Code of Criminal Procedure, 1973 (CrPC), the petitioner viz. Mary Hasda has approached this Court seeking

the benefit of pre-arrest bail, apprehending her arrest, in connection with Tamulpur Police Station Case no. 132/2021, registered under Sections

153A/295, Indian Penal Code (IPC).

The First Information Report (FIR) was lodged on behalf of the Ad Santal Somaj Udalguri District Committee on 04.04.2021 with an accusation that

the petitioner had uploaded a song sung by her in the Youtube. According to the Committee, the wordings of the song were offensive to the Santal

Community. Apprehending disturbance amongst the communities because of the said song, the FIR has been filed against the petitioner.

Learned counsel for the petitioner has submitted that the song sung by her which stated to have hurt the religious sentiments of the community, was

sung and composed by one Jonathan Tudu in the year 2006. Thereafter, it was sung by some other persons and uploaded in Youtube in the year 2020.

The song sung by her and uploaded in the Youtube was not composed by her and she had sung it without any intention to hurt the religious sentiments

of the community.

Learned Additional Public Prosecutor has submitted that he has received the concerned case diary. He has further submitted that pursuant to the

interim order dated 21.05.2021, the petitioner has appeared before the Investigating Officer (I.O.) of the case and her statement has been recorded by

the I.O. The mobile phone of the petitioner has already been seized by the I.O. The fact that the petitioner had sought apology for her said act by

uploading the song is not denied by the prosecution.

As it transpires, it was composed in the year 2006 by one Jonathan Tudu and thereafter, she has sung the song. Realizing the fact that the song sung

by her might have hurt the religious sentiments of the community, the petitioner has sought apology publicly. As the petitioner has joined the

investigation by appearing before the I.O. of the case, I am of the considered view that custodial interrogation of the petitioner for the purpose of

carrying out investigation is not necessary and her release on pre-arrest bail, at this stage of investigation, is not likely to cause any prejudicial effect in

the further investigation of the case, provided she extends her assistance and co-operation in the further investigation of the case.

Accordingly, the interim protection granted to the petitioner by order dated 21.05.2021 is made absolute, subject to the conditions that :

[i] the petitioner shall cooperate with the investigation and shall make herself available as and when her presence is required by the I.O. in the

investigation of the case;

[ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to

dissuade her from disclosing such facts to the court or to any police officer;

[iii] the petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the

police; and

[iv] the petitioner shall maintain law and order and she shall not commit an offence similar to the offence of which she is accused, or of the

commission of which she is suspected.

The bail application stands disposed of in the aforesaid terms.