

Crl. Misc. No. 711/19

06.11.2019

Bail petitioner for accused person Bijoy Kumar Konwar represented.

The instant bail application has been filed U/S 438 Cr.PC praying for grant of pre-arrest bail by accused petitioner namely **Bijoy Kumar Konwar** who is apprehending arrest in connection with Morigaon P.S. Case No. 870/19 (GR No.2953/19), U/S 67 of Information Technology Act.

Learned Addl. P.P Mr. N.A. Choudhury notified and appeared.

Petition is supported by an affidavit filed by Bijoy Kumar Konwar, swearing that no other bail petition has been filed or rejected or pending in any court including Hon'ble Gauhati High Court.

Prosecution case, in concise, is that informant Sri. Nilutpal Saikia lodged a written ejahar stating inter-alia, that on 15.9.2019 accused person Bijoy Kumar Konwar updated comments against Hon'ble Chief Minister of Assam as "Toi Kolongkita Mukhya Mantri" in his facebook page. Accused person Bijoy Kumar Konwar on several dates updated comments in his facebook account against Hon'ble chief Minister, RSS, and Hon'ble Prime Minister and Romesh Pator updated comments against MLA of Morigaon Legislative Assembly in his facebook page. Hence, this case.

Learned engaged counsel for bail petitioner submitted that accused person is innocent. Learned Addl. P.P Mr. N.A. Choudhury submitted it is first offence on part of accused person per se CD and that offence isailable one.

It appears on perusal of CD & LCR that there is no iota of material which shows that the alleged offence committed by accused is the second one. So, in view of section 67 vis-à-vis section 77B of IT Act same appears to be aailable one, hence, petition u/s 438 Cr.P.C. would not lie. However, bail petitioner may approach learned elaka Magistrate with appropriate prayer.

The Crl. Misc. Case stands disposed off to the extent above.

Send back CD& LCR accordingly. Inform all concern.

Asstt. Sessions Judge,
Morigaon

