

GAHC040015552022



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

Case No. : AB 144/2022

1:Smti Rina Mena
W/o Shri Elisha Linggi, Village- Cheta, Roing, P.O and P.S - Roing, District- Lower
Dibang Valley, Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 4 Ors.
represented by the Public Prosecutor.

2:Alen Pertin
Chairperson
CWC
Roing
Lower Dibang Valley District Arunachal Pradesh.

3:Bahe Mikrow
Member
CWC
Roing
Lower Dibang Valley District Arunachal Pradesh.

4:Smti Neharika Umbrey
Member
CWC
Roing
Lower Dibang Valley District Arunachal Pradesh.

5:XXX (Victim)
XXX
C/o Office of the Child Welfare Committee

Roing
Lower Dibang Valley District
Arunachal Pradesh

Advocate for the Petitioner : Hage Lampu

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 02.05.2023

Heard Mr. Hage Lampu, learned counsel for the accused applicant. Also heard Mr. Token Ete, learned Additional P.P. for the State respondent and Ms. Nikita Danggen, learned Legal Aid Counsel.

The instant application, **under Section 438 Cr.P.C., 1973** has been instituted by the accused applicant, **Smti Rina Mena**, for grant of pre-arrest bail, who has been apprehending arrest in connection with **Roing P.S. Case No. 57/2022**, registered under Sections 323/376(f)(3) IPC, *read with* Section 6 of the Protection of Children from Sexual Offences Act, 2012, *read with* Section 14(1) of the Child Labour Act, and *read with* Section 23 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

On 19.12.2022, a written complaint was filed by the informant before the Officer In-Charge of Roing Police Station, Lower Dibang Valley District, which was registered as Roing P.S. Case No. 57/2022, under sections 323/376(f)(3) IPC, *read with* Section 6 of the Protection of Children from Sexual Offences Act, 2012, *read with* Section 14(1) of the Child Labour Act, and *read with* Section 23

of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The substance of the F.I.R. is that on 16.12.2022, at around 12.00 PM, one minor girl was produced before Child Welfare Committee, Roing and information was provided that she was aged about 12 years and she was residing with the accused applicant at Cheta, Roing, Lower Dibang Valley District, Arunachal Pradesh. It was disclosed by the child that she was physically abused by the accused applicant and sexually abused by the husband of the accused applicant.

The learned counsel for the accused applicant submits that the child was residing with the petitioner since from last 9 years and she was given custody to the accused applicant by her parents for her better upbringing and schooling at Cheta, Roing as her parents are not in a position to raise her due to poor financial condition. The child is presently schooling at Government Middle School, Roing in Class-V standard. The accused applicant has always treated her like her own daughter irrespective of that she being not her biological daughter. The accused applicant had always given her due care and fosters her career and sometimes scolded her in case of some wrong being done and she used her in her domestic life. The accused applicant has physically never resorted to any abuse to her and subjected to any labour which is contravention to law.

The learned counsel for the accused applicant also submits that the accused applicant has no knowledge at all that her husband has sexually assaulted her as she has never complaint about such assault. In fact, the accused applicant was separated from her husband since from 10 years and she is living separately with her three children at Cheta, Roing. However, it is a fact that the husband of the accused applicant occasionally visits her residence to meet the children.

The learned counsel for the accused applicant further submits that although there is no allegation of sexual assault against the accused applicant, but, an allegation has been made likelihood of abetment of sexual assault against the accused applicant, since, the husband of the accused applicant was already arrested by the Police and the accused applicant is under reasonable apprehension that she may be arrested in connection with the aforesaid case.

The learned counsel for the accused applicant further submits that the accused applicant is working as a Contingent peon in the Office of the District Fishery Development Officer, Roing, Arunachal Pradesh and she has two minor daughter aged about 14 & 10 years and one minor son aged about 12 years. Therefore, the accused applicant has prayed for grant of pre-arrest bail in connection with the aforementioned case.

This Court on 22.12.2022, has granted pre-arrest bail to the accused applicant in view of the fact that the accused applicant is a lady and the primary allegation made in the F.I.R. dated 19.12.2022, being commission of an offence of rape by the husband of the accused applicant and directed the accused applicant be released on interim pre-arrest bail on furnishing a bail bond of Rs. 10,000/- with one surety of like amount, subject to the satisfaction of the arresting authority, on the following terms and conditions:-

- (i)** She shall fully co-operate with the investigation of the case;
- (ii)** She shall not indulge in any activity which would either, hamper, or, hinder the investigation of the case; and
- (iii)** She 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/her from disclosing such facts to the Police Officer or

tamper with the evidence of the case.

Mr. T. Ete, learned Additional P.P., has produced the scanned copies of the Case Diary. Referring to the statement made by the victim, under Section 164 Cr.P.C., 1973, the learned Additional P.P., submits that there is no material against the accused applicant except the statement to the effect that the accused applicant frequently assaulted the victim and injured her on many occasions.

On perusal of the Case Diary and considering the submissions made by the learned counsels appearing for the parties, this Court is of the view that the accused applicant is entitled to pre-arrest bail.

Accordingly, the interim pre-arrest bail granted to the accused applicant on 22.12.2022 is hereby made absolute on the same terms and conditions.

In terms of above, this anticipatory bail application stands disposed of.

The Case Dairy be sent back.

JUDGE

Comparing Assistant