

GAHC010025712023



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

Case No. : AB/386/2023

PRAJIT NARZARY @ BADAL
S/O- LAIDAR NARZARY, R/O- VILL.- NARABARI, P.S. AND DIST.
KOKRAJHAR, BTR, ASSAM, PIN- 783370.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SUMILA WARY
W/O- LATE MENDLA WARY
R/O- VILL.- MASLABARI
KARIGAON
P.S. AND DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783373

Advocate for the Petitioner : MR B B NARZARY

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

10. 03. 2023

Heard Mr. BB Narzary, learned Senior counsel assisted by Mr. P

Mahanta, learned counsel for the petitioner. Also heard Mr. B Sarma, learned Additional Public Prosecutor, Assam.

The present application is filed for the second time under Section 438 of Cr.P.C. praying for pre-arrest bail to the petitioner in connection with Kokrajhar PS case No. 501/2022 under Section 363/370(1)(iv)/370(A) (1)/376(3) read with Section 6 of the POCSO Act corresponding to GR No. 864/2022.

The present petitioner approached this court by way of filing AB No. 87/2023 praying for pre-arrest bail in connection with the same case, which was dismissed by the court under its order dated 30.01.2023.

Mr. Narzary, learned Senior counsel submits that his client is nowhere involved in the case inasmuch as he has not been named by the victim girl. The second contention is that the petitioner is ready and willing to have a test identification parade so that actual culprit can be brought out. He has wrongly been brought into the alleged incident inasmuch as he is having established position in life being a Government servant as well as a cultural activist, who is into making of video film etc.

Mr. Sarma relying on the case diary submits that the girl herself has implicated the person and being a police person it was his responsibility to protect the minor from such heinous offences rather he himself participated in commission such offences. Therefore, a person like the present petitioner should not be granted the privilege of pre-arrest bail. Perused the case diary.

Production of case diary reveals a very worrying situation. A girl of 13 year of age was brought by some of her friends from village to a town, introduced her to many persons including the present petitioner, who had

sexual intercourse with her, paid money and money was taken by another lady, namely, Dipali. This is not the end of the story, it continues further. She was taken from place to place, was used for money, had sexual intercourse. Of course, in her statement recorded under Section 164 Cr.P.C, she stated that all these sexual intercourse were with her consent. However, such consent is of no value in the eye of law, she being a minor of 13 years of age.

In the considered opinion of this court, this is a very serious case where a girl from village has been introduced into the prostitution at the early age of 13 years when she ought to have been in school, studying or playing. The present petitioner, who is a police personal, has also been implicated by the Hotel Manager of the hotel where the girl was taken.

Considering all above, this court finds that this petition deserves to be dismissed. Accordingly, same is dismissed.

CD be returned.

JUDGE

Comparing Assistant