

GAHC010025882023



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

Case No. : AB/385/2023

PRADIP GOGOI
S/O- LATE KESHAB GOGOI, R/O- NO. 1 KOBORU GAON, JONAKI NAGAR,
P.O., P.S. AND DIST. GOLAGHAT, ASSAM, PIN- 785621.

VERSUS

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

2:RIKUMONI RAJKHOWA
W/O- DIPAK RAJKHOWA
R/O- VILL. AND P.O. BORPOTHORUA
DIST. GOLAGHAT
ASSAM
PIN- 785610

Advocate for the Petitioner : MR. P DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

15.03.2023

Heard Mr. P. Dutta, learned counsel for the petitioner and Mr. B.B. Gogoi,
learned Addl. Public Prosecutor, Assam for the State.

2. This anticipatory bail application has been filed by the petitioner namely, **Pradip Gogoi** apprehending arrest in connection with Golaghat P.S. Case No. 09/2023 under Section 354A of the IPC read with Section 10 of the Protection of Children from Sexual Offences Act, 2012.

3. An FIR dated 07.01.2023 was lodged by the informant one Rukmoni Rajkhowa wherein it is alleged that the daughter of the informant, who is aged about 15 years and a student of Class-IX was physically abused and inappropriately touched by the petitioner who is the owner of Dhansiri Jatia Vidyalaya. According to the petitioner on the date of the incident at about 12.30 PM, the daughter of the informant was alone in the house when the petitioner came to the house and committed the offence alleged. When the informant came back to the house, she found that her daughter in an unstable of mind because of fear and she was crying a lot saying that the accused petitioner had physically abused her and inappropriately touched her body. The FIR was accordingly registered and the police carried on the investigation.

4. The learned counsel for the petitioner submits that the allegations made are absolutely false. It is submitted that the informant is an employee in the school where the petitioner is the administrator. It is submitted on behalf of the petitioner that the informant is a very casual and irregular employee in performing her duties and the petitioner being the administrator of the school asked the informant to do her duty properly and warned her to perform her duties properly. The informant only on the personal grudge lodged the FIR against the petitioner which is false and baseless. It is submitted by the petitioner that besides Section 354A of the IPC it was also registered under

Section 10 of the POCSO Act. According to the petitioner, Section 10 of the POCSO Act is not applicable to the petitioner as he is not a Government Servant or that the allegations of Sexual assault on the child was not committed in the institution where the petitioner is administrator. Accordingly, it is submitted that the allegations leveled against the petitioner are false.

5. This Court vide order dated 13.02.2023 directed production of the case diary. The case diary was accordingly produced by the learned Addl. Public Prosecutor.

6. The learned counsels for the parties have been heard. The anticipatory bail petition has been carefully perused. The case diary has also been perused.

7. It is seen from the case diary that the victim girl had recorded her statement under Section 164 Cr.P.C on 09.01.2023. In her statement under Section 164 Cr.P.C., she has categorically implicated the petitioner. The birth certificate available in the case diary also reveals that the date of birth of the victim girl is 19.11.2007 and the victim girl as per birth certificate is below 18 years. It is seen that the matter is under investigation and the statements of the various witnesses have been recorded. The matter is at the initial stage of investigation, therefore, considering the materials available from the case diary including the statement of the victim girl recorded under Section 164 Cr.P.C., it is not a fit case to grant anticipatory bail at this stage to the petitioner.

8. When the matter was taken up, it was pointed out to the learned counsel for the petitioner that the name of the informant has been arrayed as

respondent No. 2 and therefore, notice on the respondent No. 2 was required to be served for further hearing in the matter. Steps for service of notice on the respondent No. 2 was required to be taken by the petitioner. However, the learned counsel for the petitioner prayed for striking out the name of the respondent No. 2. Upon due perusal of the case diary, since this Court is not inclined at this stage to grant anticipatory bail as prayed for, issuance of notice on the respondent No. 2/informant is not deemed necessary.

9. The anticipatory bail application, is accordingly, dismissed.

10. Return the case diary.

JUDGE

Comparing Assistant