

GAHC010028892023



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

Case No. : AB/437/2023

TASLIMA BEGUM
W/O LATE RAJAB ALI
R/O URIAGRANT RANGALOO
P.S. NAGAON
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD S ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

03.03.2023

Heard Mr. S. Ali, learned counsel for the applicant and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Nagaon P.S. Case No. 62/2023,

under Sections 376/34 of the IPC read with section 4 of the POCSO Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Taslima Begum for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Janab Ali, on 20.01.2023, to the effect that on 19.01.2023, at about 10 hours, accused Sahil Hussain, with the help of accused Abdul Hekim and Taslima Begum entered into the room of his minor daughter Smti X [name withheld] aged 17 years and involved in indecent activities with her and thereafter, hearing hue and cry he, his wife and neighbors caught hold of the accused No. 1 who had implicated accused Abdul Hekim and Taslima Begum with the offence.

4. Mr. Ali, learned counsel for the applicant submits that the applicant is no way involved with the offence alleged in the FIR and the main allegation is against the accused No. 1, Sahil Hussain and that she is ready to cooperate with the investigating agency, and therefore Mr. Ali contended to allow the petition.

5. On the other hand, Mr. Lahkar, learned Additional Public Prosecutor, has produced the case diary before this court and referring to the statement of the victim girl, recorded under section 164 of the Cr.P.C. Mr. Lahkar further submits that she has not implicated the applicant with the offence alleged in the FIR.

6. Having heard the submissions of learned Advocates of both sides, I have carefully perused the petition as well as the documents placed on the record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. P.P.

7. Having regard to the materials collected so far in the case diary, especially the statement of the victim girl recorded under section 164 of the Cr.P.C., this court is of the view that the custodial interrogation of the applicant seems to be unwarranted in the interest of investigation.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with Nagaon P.S. Case No. 62/2023, under Sections 376/34 of the IPC read with section 4 of the POCSO Act, she shall be enlarged on interim pre-arrest bail on her executing a bond of Rs. 25,000/- (Rupees twenty-five thousand) only with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant 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 from disclosing such facts to the Court or to any police officer; and

(iii) that the applicant shall not leave the jurisdiction of the learned Special Judge, POCSO Act, Nagaon, without prior permission.

10. In terms of above, this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant