

GAHC010029612023



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

Case No. : AB/440/2023

JUDASH SANGMA @ JUDAS SANGMA
S/O KHALEPSON MARAK @ Kholeb Marak
R/O Vill- Bhoiskhuli, Jungal Block No. 2, P.S. Lakhipur
Dist. Goalpara, Assam
PIN-783101

VERSUS

THE STATE OF ASSAM
Rep. by the PP, Assam

Advocate for the Petitioner : MR. K M HASSAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

03.03.2023

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

2. Apprehending arrest in connection with the Lakhipur P.S. Case No. 25/2023, under Section 376 of the IPC read with section 6 POCSO Act, this

application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Judash Sangma @ Judas Sangma for grant of pre-arrest bail.

3. The said case has been registered on the basis of an FIR lodged by Planas Marak, on 12.01.2023, the allegation leveled in the FIR against the applicant is that he enticed the minor daughter of the informant Smti X [name withheld] aged 13 years and took her to his resident and committed rape upon her. As a result, she becomes pregnant and carrying pregnancy of 7 months.

4. Mr. Hasan, learned counsel submits that the applicant has been implicated here in this case falsely and he is innocent and no way involved with the offence alleged in the FIR and also there is delay of 7 months in filing the FIR and that the applicant is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Lahkar, learned Additional Public Prosecutor, has referred to the statement of the victim girl, recorded under section 164 of the Cr.P.C. and submits that the victim has clearly implicated the present applicant with the offence alleged in the FIR. Mr. Lahkar further submits that the investigation is still going on, and therefore, Mr. Lahkar contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary produced before this Court with the assistance of Mr. Lahkar, learned Additional Public Prosecutor.

7. It appears from the case diary that the IO has collected sufficient

incriminating materials against the applicant, which shows the complicity of the applicant with the offence alleged in the FIR. It also appears that the IO has recorded the statement of the victim girl under section 164 of the Cr.P.C., wherein she clearly implicated the applicant with the offence alleged in the FIR. The investigating is still going on. The offences are serious in nature.

8. Having regards to above, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and therefore, the same is dismissed.

9. Case diary be returned.

JUDGE

Comparing Assistant