

GAHC010054122023



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

Case No. : AB/903/2023

NUR UDDIN SHEIKH
S/O LATE MONSER ALI
R/O VILL- SHILGHAGRI PART-I, P.S. DHUBRI, (SADAR), DIST. DHUBRI,
ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

07.06.2023

Heard Mr. A.A.R. Karim, learned counsel appearing for the petitioner. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of

pre-arrest bail to the petitioner, namely **Nur Uddin Sheikh** apprehending arrest in connection with **Dhubri P.S. Case No. 795/2021** registered u/s **120B/457/354B/376/511/506** of the IPC (corresponding to **G.R. Case No.2502/2021.**)

The Case diary, as called for, is placed before the Court without medical report.

The FIR reveals the allegation that on 05.05.2021, at about 12.30 a.m., during the absence of the informant's husband the accused petitioner along with two others being armed with sharp weapons trespassed into their house by breaking the window and the accused petitioner committed rape on her person. However, on hearing the hue and cry made by the informant's minor daughter, when the family members rushed to the spot, the accused persons fled away.

Although the FIR is dated, 05.05.2021, as per registration, it is shown to be reported on 15.05.2021, that is, after 10 (ten) days from the date of the alleged occurrence.

Perusal of the case diary reveals prima facie incriminating material against the petitioner. However, the victim, who is stated to be aged about 31 years and married, was not subjected to medical examination. It prima facie appears to be a case of attempt to rape. The investigation has substantially progressed in respect of the complicity of the petitioner in the commission of the alleged offences.

Considering the pros and cons of the materials available on the case diary, this Court is of the opinion that custodial interrogation of the petitioner may not be required in the interest of investigation into the case.

Accordingly, it is provided that in the event of arrest, the petitioner, named

above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs.50,000/- (Rupees Fifty Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 7 days, failing which, on and from the 8th day, this pre-arrest bail order shall have no force; and
- (ii) That the petitioner 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.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant