

GAHC010060402023



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

Case No. : AB/1020/2023

SANJIB BISWAS @ SAJIB BISWAS AND ANR
S/O SRI SANTOSH BISWAS
R/O VILL- 2 NO. BASA SIMALU, P.S. DHEKIAJULI, DIST. SONITPUR

2: SRI BIPUL BISWAS
S/O SRI SANTOSH BISWAS
R/O VILL- 2 NO. BASA SIMALU
P.S. DHEKIAJULI
DIST. SONITPU

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

~~26-05-2023~~

Heard Mr. S.C. Biswas, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

This Anticipatory Bail petition has been filed by the petitioners, namely, 1) Sanjib Biswas @ Sajib Biswas & 2) Bipul Biswas, who are apprehending their arrest in connection with Dhekiajuli Police Station Case No.5/2023 registered under Sections 366/34 of the IPC.

Learned counsel for the petitioner submits that the informant one Smti Anita Mondali lodged an FIR on 03.01.2023 alleging that her daughter, who was aged about 17 years 5 months, had left for tuition classes from Sonitpur towards Singri at about 2 P.M. in the afternoon and when she did not return home till the evening, the informant went out to enquire of her whereabouts. Later, she came to know that the petitioners had kidnapped her daughter on her way to home. It was alleged that the family members of the petitioners are also involved in the incident. Accordingly, the FIR was lodged which was received and registered as Dhekiajuli Police Station Case No.5/2023 registered under Sections 366/34 of the IPC.

This court by order dated 21.03.2023 and thereafter, on subsequent dates called for the case diary.

Learned Additional P.P. has produced the case diary today and the case diary has been carefully perused.

Learned counsel for the petitioners submits that an additional affidavit has been filed on 03.04.2023 stating that the girl has already been recovered and has returned to her home.

It is seen that the victim girl in her statements recorded under Section 164 Cr.P.C. has clearly implicated the petitioner no.2. The victim girl has clearly mentioned that the petitioner no.2 had forcefully taken her away from her home to Dhekiajuli and then to Jorhat and the petitioner no.2 had also entered into a forceful physical relationship with her without her consent.

The medical report does not reveal any physical injuries on her body. The Gynecological and other pathological tests conducted on the victim girl have given negative results in so far as the allegations are concerned. However, it is to be noted that the medical test was done on 06.01.2023 and the FIR was lodged on 03.01.2023 while the alleged incident took place on 29.12.2022.

Upon due perusal of the case diary, it is evident that there are materials which incriminate the petitioner no.2, namely, Bipul Biswas at this stage of investigation. However, no such materials are available in the case diary in respect of the petitioner no.1, namely, Sanjib Biswas @ Sajib Biswas.

Upon hearing the learned counsel for the parties and on taking into consideration of the entire matter including the materials available in the case diary, this Court is of the opinion that the prayer for anticipatory bail can be granted in respect of the petitioner no.1.

Accordingly, it is provided that in the event of arrest of the petitioner no.1, named above, in connection with the above noted case, he shall be released on pre-arrest bail upon furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand) with 1 (one) local surety of like amount to the satisfaction of the arresting authority, subject, of course to the following conditions:

- (i) That the petitioner no.1 shall appear before the Investigating Officer within 10 (ten) days from today;
- (ii) That the petitioner no.1 shall not hamper or tamper with the investigation in any manner;
- (iii) That the petitioner no.1 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 office; and

- (iv) That the petitioner no.1 shall not leave the jurisdiction of Dhekiajuli Police Station without obtaining prior written permission from the concerned Investigating Officer of the case.

In the event, the petitioner no.1 is found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the anticipatory bail granted to the petitioner no.1.

In view of the materials which are noticed in the case diary at this stage of investigation in so far as the petitioner no.2 is concerned, this Court is not inclined to grant anticipatory to the petitioner no.2 and accordingly, the prayer for anticipatory bail of the petitioner no.2 stands rejected.

Anticipatory bail application is partly allowed and disposed of. Return the case diary.

JUDGE

Comparing Assistant