

GAHC010073612023



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

Case No. : AB/1244/2023

ABDUL KHALIQUE
S/O JASIR ALI
VILL- BAZARGHAT
(KARNAMADHU)
P.O. AWLABARI
P.S.KARIMGANJ
DIST. KARIMGANJ, ASSAM

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

25.04.2023

Heard Mr. H.R.A. Choudhury, learned Senior Counsel assisted by Mr.

R.A. Choudhury, learned counsel for the petitioner. Also heard Mr. R.R.

Kaushik, learned Addl. Public Prosecutor, Assam.

2. This Anticipatory Bail petition has been filed by the petitioner, namely, Abdul Khalique, who is apprehending his arrest in connection with Karimganj P.S. Case No.101/2023 corresponding to C.R. Case No.105/2023 registered under Sections 366(A)/376/34 of the IPC.

3. It is submitted that by an FIR dated 30.01.2023 lodged by the informant one Abdul Mazid, it was alleged that the petitioner and another person, namely, Dilwar Hussain kidnapped his minor daughter when she went towards their pond to fetch a goat. It is alleged that the accused persons covering their faces, forcibly kidnapped the minor daughter of the informant and took her in a vehicle. In the evening, when the informant and his wife came together from the field and began searching for their daughter, although they searched for their daughter, she was not found and thereafter, at about 9.30 PM they heard the cry of their daughter near the road side of the house. When they went outside and fetched their daughter, she alleged that the petitioner along with the accused no.1 named in the FIR, forcefully by gagging her mouth took her near a graveyard at the bank of river Longai in an auto rickshaw, where the accused no.1 forcefully raped her. It is alleged that the accused no.2 was

sitting near the vehicle. Although a meeting was called for in the village, the accused persons did not attend the meeting and thereafter, the FIR was filed. The said FIR was received and registered as Karimganj P.S. Case No.101/2023 corresponding to C.R. Case No.105/2023 registered under Sections 366(A)/376/34 of the IPC.

4. This Court by order dated 04.04.2023 called for the case diary.

Today, the case diary, as called for, has been presented by the learned Addl. P.P., Assam.

5. Learned counsels for the parties have been heard.

The case diary has been carefully perused.

6. Upon perusal of the case diary, the statement of the victim girl recorded under Section 164 Cr.P.C. before the JMFC-I, Karimganj is perused.

7. In her statement before the Magistrate, JMFC-I, Karimganj, the victim girl clearly implicates the petitioner and the other accused for kidnapping her and committing rape on her. From the birth certificate available in the case diary, it is seen that the date of birth of the victim girl is 11.10.2007 and as such, she is a minor.

8. The matter is under investigation and materials available in the case

diary including the statements of the victim girl recorded under Section 164 Cr.P.C. clearly implicates the petitioner at this stage of investigation. The offences alleged against the petitioner are grave in nature and the punishments prescribed under the statute are severe.

9. Considering the materials in its entirety, this Court is of the opinion that in view of the incriminating materials available against the petitioner at this stage of investigation, prayer for pre-arrest bail of the petitioner at this stage cannot be granted.

10. Accordingly, the Anticipatory Bail Petition is dismissed.

11. Return the case diary.

JUDGE

Comparing Assistant