

GAHC010074892023



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

Case No. : AB/1274/2023

MD. KAMRUL HUSSAIN
S/O MD. ABDUL GAFUR
R/O GARIABATI PATHER,
WARD NO. 06, P.S.MOIRABARI
DIST. MORIGAON, ASSAM

VERSUS

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

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

07.06.2023

Heard Mr. S. Munir, learned counsel appearing for the petitioner. Also heard Mr. D.P. Goswami, 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 **Md. Kamrul Hussain** apprehending arrest in connection with **Moirabari P.S. Case No. 39/2023** registered u/s **451/354** of the IPC read with Section **8** of the POCSO Act, 2012.

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

The FIR reveals the allegation that on 07.02.2023, at about 11.30 p.m., the petitioner by entering the room of the informant's minor daughter gagged her mouth and laid her on the bed. As there was some sort of sounds, her brother woke up and tried to catch the petitioner, but he managed to escape.

Perusal of the case diary shows the date of birth of the victim to be 05.10.2005. As such, on the date of occurrence, that is, 07.02.2023, her age was 17 years 4 months 3 days. The victim in her statements recorded under Sections 161 and 164 Cr.P.C. has implicated the petitioner with the commission of the alleged offences. The petitioner is a relative as well as neighbour of the victim. The case diary indicates development of relationship between the petitioner and the victim girl and that the petitioner proposed to marry her, which she rejected. The victim was, however, not subjected to medical examination. The investigation has substantially progressed in respect of the complicity of the petitioner in the commission of the alleged offences.

In the backdrop of facts and 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.40,000/- (Rupees Forty 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;
- (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; and
- (iii) That the petitioner shall refrain from committing any similar offences in future of which he is accused or suspected of commission.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant