

GAHC010075222023



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

Case No. : AB/1288/2023

ABDUR RASHID
S/O ABDUL GOFUR
R/O VILL- DIMATOLA POYESTI
P.O. JORUARCHAR,P.S. FAKIRGANJ
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

27/06/2023

Heard Mr. F Haque, learned counsel for the petitioner and Mr. D Das, learned Additional Public Prosecutor, Assam for the State.

The petitioner, namely, **Abdur Rashid**, has filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending his arrest in **Fakirganj P.S. Case No. 49/2023** registered under Sections 457/376/506/ 323/34 IPC corresponding to G.R. No. 569/2023.

By order dated 06.04.2023, the Court granted interim bail to the petitioner in said Fakirganj P.S. Case No. 49/2023 pursuant to which he appeared before the concerned Investigating Officer of the case and his statement was also recorded.

As per the FIR of the case, the accused petitioner on the night of 27.02.2023 forcefully committed rape on her promising to marry her but later he refused.

Accordingly, said FIR was registered as Fakirganj P.S. Case No. 49/2023 under Sections 457/376/506/323/34 IPC.

Perused the case diary placed before the Court today by Mr. D Das, learned Additional Public Prosecutor, Assam as well as the statement of the victim recorded under Section 164 Cr.P.C, which reflects that the victim refused to go for her medical examination.

The note of the Investigating Officer of the case after recording the statement of the neighbouring people did not implicate the petitioner rather clarified that the victim not only filed such case against the petitioner but also against some other persons because of not considering her prayer for providing certain financial assistance.

Considering the materials available in the case dairy, the Court is of the view that custodial interrogation of the petitioner, named above, is not warranted to investigate the said Fakirganj P.S. Case No. 49/2023. As such, this pre-arrest bail application of the petitioner in said Fakirganj P.S. Case is accepted.

The petitioner, namely, **Abdur Rashid** is already on interim bail in said **Fakirganj P.S. Case No. 49/2023** granted to him earlier by this Court on 06.04.2023 and the same is hereby made absolute on the terms and conditions that the petitioner shall - **(i)** appear before the concerned Investigating Officer of said Fakirganj P.S. Case No. 49/2023 as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of said Fakirganj Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** 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.

Any violation of any of the aforesaid terms and conditions by the petitioner, named above, pre-arrest bail granted to him in said Fakirganj P.S. Case No. 49/2023 shall stand automatically

vacated.

Return the case diary.

Accordingly, this pre-arrest bail application stands allowed to the extent above.

JUDGE

Comparing Assistant