

GAHC010102572023



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

Case No. : Bail Appln./1673/2023

PIYAR ALI
S/O LATE FAZAR ALI
R/O VILL- BHAIKAB UR PAHAR NC,
P.O. BHAIKAB PAHAR
P.S. JOGIGHOPA
DIST. BONGAIGAON, ASSAM
PIN-783389

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

~~25-05-2023~~

Heard Mr. M.Z. Shah, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

This Bail Application has been filed by the petitioner, namely, Piyar Ali, seeking bail who is in custody since 01.05.2023 in connection with Jogighopa Police Station Case No.131/2023 registered under Sections 376/342 of the IPC.

Learned counsel for the petitioner submits that an FIR dated 27.04.2023 was lodged by one informant, namely, Shahjamal Sheikh in which it was alleged that the accused person no.1, namely, Niazam Ali on the pretext of marrying the daughter of the informant had been maintaining physical relationship with his daughter and the accused persons no.2 & 3 by making conspiracy kept the accused no.1 in an unknown place. Accordingly, the FIR was lodged which was registered as Jogighopa Police Station Case No.131/2023 registered under Sections 376/342 of the IPC.

Pursuant to the investigation initiated by the police, the petitioner was arrested on 01.05.2023 and since then he has been in custody.

Learned counsel for the petitioner submits that the allegations made in the FIR are false and the petitioner is not connected with the allegations made in the FIR. It is submitted that the accused person no.1 and the informant's daughter were known to each other and they were in a relationship but to his knowledge, no physical relationship was established.

This Court earlier by order dated 12.05.2023 had called for the case diary and today, Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, has produced

the case diary.

From the statements of the victim girl recorded under Section 164 Cr.P.C. as available in the case diary, it is clearly seen that the victim girl has not implicated the present petitioner. No such incriminating materials are seen in the case diary which can implicate the present petitioner with the offences alleged, more particularly, the offences specified under Section 376 IPC. Further,

Upon hearing the learned counsel for the parties and upon perusal of the materials available in the case diary, more particular, after seeing the statements made by the victim girl under Section 164 Cr.P.C., *prima facie*, this Court is of the opinion that the ingredients of Section 376 IPC may not be attracted to the present petitioner.

Under such circumstances, this Court is of the opinion that further custodial detention of the petitioner may not be necessary as there is no such materials in the case diary which suggest that further custodial detention of the petitioner is necessary in connection with the investigation of the case which is being carried on. No materials are also available in the case diary to suggest that grant of bail of the petitioner at this stage will cause impediment to the investigation carried on by the police. As such, the petitioner is directed to release on bail forthwith.

Accordingly, the petitioner, named above, shall be released on bail in connection with the above noted case, upon furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with 1 (one) local surety of like amount to the satisfaction of the Sub-Divisional Judicial Magistrate, North Salmara, Abhayapuri, subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer of the case as and when required till completion of the investigation;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;
- (iii) 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 office; and
- (iv) That the petitioner shall not leave the jurisdiction of competent Court without obtaining prior written permission.

In the event, the petitioner 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 bail granted to the

petitioner.

The Bail Application is accordingly allowed and disposed of.

Return the case diary.

JUDGE

Comparing Assistant