

GAHC010108242023



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

Case No. : Bail Appln./1786/2023

ABDUL MANNAN
S/O KURBAN ALI, R/O VILL- 3 NO. DHALPUR, P.S.-SIPAJHAR, DIST-
DARRANG, ASSAM, PIN-781150

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 14.06.2023

Heard Mr. A. K. Azad, learned counsel appearing for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioner, namely, **Abdul Mannan** seeking bail in connection with

Sipajhar P.S. Case No. 193/2023 registered under Sections 376/313/420/406/506/34 of IPC. The petitioner was arrested on 02.05.2023 and since then he has been in custody.

3. It is submitted that an FIR dated 28.04.2023 was lodged by the informant alleging that while she was working in Tamilnadu she met the petitioner, who was also working in the same company. It is alleged that the petitioner had forcibly established physical relationship with the informant in the year 2019 but as the petitioner impressed upon her to start matrimonial life, they both resided in Tamilnadu for almost 4 ½ years as husband and wife in a rented house and used to work together in the said company.

4. It is alleged that she became pregnant and the petitioner compelled her to abort her pregnancy. Petitioner requested for conducting the Court Marriage many times but the petitioner declined. It is further alleged in the FIR that the monthly salary used to be handed over to the petitioner for purchase of land and for building a house. Thereafter they came back from Tamilnadu and she underwent an operation for an ailment on her neck. It is alleged that after the operation she was kept in the petitioner's maternal Uncle's house and he promised that he will take her back after the Eid festival. Later on, the accused/petitioner got married another girl and sent her Notarised agreement. It is alleged that there is a conspiracy of the petitioner's parents in getting him married to someone else.

5. The said FIR was received and registered as Sipajhar P.S. Case No. 193/2023 registered under Sections 376/313/420/406/506/34 of IPC.

6. Investigations commenced in the matter and the petitioner was arrested in connection with the aforementioned case on 02.05.2023 and since then he has been in custody.

7. This Court had called for the case diary.

8. Mr. R. J. Baruah, learned Additional Public Prosecutor appearing for the State of Assam has produced the case diary before this Court, which has been carefully perused.

9. Upon due perusal of the case diary, it is seen that in the statement of the informant recorded under Section 164 Cr.P. C she has implicated the petitioner and has reiterated her allegations made in the FIR. She however, refused to be medically examined and the same was duly endorsed by the Medical Officer.

10. Upon considering the materials available in the case diary and upon hearing the learned counsels for the parties, this Court is of the view that materials available in the case diary do not suggest that further custodial detention of the petitioner is necessary at the stage of investigation. Although investigation had progressed the charge-sheet has not been filed as yet. From the case diary, prima facie it appears that the physical relationship between the petitioner and the informant is consensual in nature and both parties are adults.

11. Learned counsel for the petitioner has relied upon the Judgment of the Apex Court reported in *2022 Live Law (SC) 649* passed in *Criminal Appeal No(s).442/2022* dated 27th July, 2022 in support of his contentions. The said judgment of the Apex Court referred has also been carefully perused.

12. Upon consideration of the arguments made as well as the pleadings available read with the case diary and the judgment cited in the Bar, this Court is of the view that further custodial detention of the petitioner does not appear to be necessary during the investigation of the present case. Accordingly, the petitioner is directed to be released on bail.

13. The petitioner is directed to be released on bail subject to executing a bail bond of Rs.30,000/- (Rupees thirty thousand) only with one local surety of like amount to the satisfaction of the Chief Judicial Magistrate, Darrang, Mangaldai. The bail, granted however, subject to the following conditions:-

i) The petitioner shall continue to appear before the police and cooperate with the Investigating Officer as and when required, till completion of investigation.

ii) The petitioner shall not change her residence or place of business, without prior written permission from the Court of Chief Judicial Magistrate, Darrang, Mangaldai.

iii) That the petitioner shall not hamper or tamper with the investigation in any manner; and

iv) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

14. If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.

15. With the above direction, the bail petition is accordingly allowed and disposed of.

16. Return the Case Dairy.

JUDGE

Comparing Assistant