

GAHC010108602023



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

Case No. : Bail Appln./1876/2023

AMARJYOTI PRASAD
S/O SRI DHRUBA NARAYAN PRASAD
R/O KOCHUPUKHURI
P.O. KOCHUPUKHURI
P.S. HOWRAGHAT
DIST. KARBI ANGLON, ASSAM
PIN-782481

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S CHAUHAN

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

26-06-2023

Heard Mr. S. Chouhan, learned counsel for the petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC, the petitioner, namely, **Amarjyoti Prasad** son of Dhruba Narayan Prasad is seeking bail in **Sessions Case No. 13/2023** arising out of

Howraghat Police Station Case No. 13/2023 registered under Sections 417/376/493 IPC corresponding to G. R. No. 110/2023, pending trial in the Court of Learned Assistant Sessions Judge, Karbi Anglong, Diphu in which, he is in custody since 24.02.2023.

The complainant on 14.02.2023 lodged an FIR before the Officer-in-Charge of Howraghat Police Station, East Karbi Anglong that she belongs to Schedule Caste from Harizan community and her mother as well as mother of the petitioner work together as Anganwadi Helper under Howraghat ICDP and as such, both of them knew each other since long.

It is stated that the petitioner used to visit the house of the complainant during the festivals. In February, 2019 petitioner proposed to marry the complainant and also after few months, which she informed to her sister that was consented by her. In March, 2019 during Holi time petitioner caught her and tried to rape her but she escaped. Again in April, 2019 during Bihu time in absence of her parents at home, the petitioner raped her and she informed the same to her elder sister to which her sister informed her not to tell anyone as he will marry her. Thereafter, the petitioner indulged in physical relation by force with the complainant on many a times, when her parents were not available at home as he used to come to her house by motorbike. Though she protested for such acts, but remained silent as he promised her to marry. In the year 2020, the petitioner was appointed as a Hindi Teacher in a M.E. School of Nagaon District under Kampur Police Station. In February, 2020, the petitioner took the complainant to Nagaon Court made declaration before the Notary of Nagaon Court in presence of his friends and her sister and brother-in-law accepting her as his wife and assured to bear all expenses. Thereafter, they went to the Shiva Temple opposite to Nagaon Court, exchanged garlands and they accepted them as husband and wife promising before the Idol therein. The complainant stated that the village Headman and elderly persons of her locality were aware of the said fact.

Though from April, 2019 to July, 2022 the petitioner had indulged in physical relation with her on many occasions and took her to many places with him during festivals and other time, but since August, 2022, he became adamant and told her that he will not keep her as his wife asking her to forget everything. On his such behavior the complainant alleged that though the petitioner raped her with promise to marry, sworn affidavit as his wife, but now after ruining her name and fame, the petitioner oppressed her modesty and thereby committed offences under the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989 and the Indian Penal Code requesting the authority to take appropriate action. The said FIR of the complainant was

registered as **Howraghat Police Station Case No. 13/2023** under Sections 417/376/493 IPC and the petitioner was arrested on 24.02.2023 and is in custody since then.

Police after investigating the matter submitted the charge-sheet in the case on 28.02.2023 and accordingly, Sessions Case No. 13/2023 was registered that is pending for adjudication before the Court of learned Assistant Sessions Judge, Karbi Anglong, Diphu. Charge in the said case was framed on 17.05.2023 under Section 417/376/493 IPC against the accused person, i.e., the petitioner herein and out of 12 prosecution witnesses named in the charge-sheet, the evidence of the complainant/victim had already been recorded on 31.05.2023 and her cross examination was reserved by the defence i.e., from the side of the petitioner.

Perused the records of Sessions Case No. 13/2023 called from the Court of learned Assistant Sessions Judge, Karbi Anglong, Diphu.

Perused the deposition of the victim as PW.1 as well as her statement under Section 164 CrPC recorded on 16.02.2023 by the learned Judicial Magistrate, First Class, Karbi Anglong, Diphu and also her statement under Section 161 CrPC made before police.

Considering the allegations made against the petitioner in the concerned FIR, her statement made before the Magistrate under Section 164 CrPC and her statement made before the Trial Court, the Court is of the opinion that further custodial detention of the petitioner is not warranted in said **Sessions Case No. 13/2023** arising out of **Howraghat Police Station Case No. 13/2023** registered under Sections 417/376/493 IPC corresponding to G. R. No. 110/2023.

Accordingly, the petitioner, namely, **Amarjyoti Prasad** be released on bail in said **Sessions Case No. 13/2023** arising out of **Howraghat Police Station Case No. 13/2023**, on furnishing a bail bond of Rs.1,00,000/-, with 2 (two) local sureties of the like amount, to the satisfaction of the learned Assistant Sessions Judge, Karbi Anglong, Diphu on conditions that the petitioner shall – **(i)** appear before the learned Assistant Sessions Judge, Karbi Anglong, Diphu in said Sessions Case No. 13/2023, on the dates so fixed and shall cooperate in the trial of said case; **(ii)** not leave the territorial jurisdiction of the learned Assistant Sessions Judge, Karbi Anglong, Diphu, without obtaining prior written permission from the said authority; **(iii)** not hamper, or tamper with the evidence of the case and **(iv)** he shall not, directly or indirectly, make any inducement, threat or promise to the complainant/victim, her family members and/or any

person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court and failing any of the conditions mentioned above, the bail granted to him in the aforesaid **Sessions Case No. 13/2023** arising out of **Howraghat Police Station Case No. 13/2023** shall stand automatically vacated.

This bail application accordingly stands allowed to the extent above without entering into the merit of the said Sessions Case No.13/2023.

JUDGE

Comparing Assistant