

GAHC010111942023



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

Case No. : Bail Appln./1844/2023

MD ASADULLA HOQUE @ ASADULLAH HOQUE @ MD ASADULLA
S/O- OSMAN GANI, VILL- PACHIM KAMARPARA, P.S. KHARUPETIA, DIST.-
DARRANG, PIN- 784115

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MS. U DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

14-06-2023

Heard Mr. R. D. Bhuyan, 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, **Md. Asadulla Hoque @ Asadullah Hoque @ Md. Asadullah** is seeking bail in **Kharupetia P.S. Case No.112/2023** registered under Sections 420/342/376/506 IPC, corresponding to G.R. No.879/2023.

As per the FIR of the case, lodged by the informant on 03.05.2023, stating that she had an affair with the petitioner for the last, more than two years and both their family members decided for their marriage on attaining the appropriate age. The complainant alleged that since their marriage was agreed, the petitioner used to visit her house frequently and in absence of other family members on 20.08.2022 and on 14.04.2023, the petitioner had physical relation with her, inspite of her objections. As she is now pregnant and the petitioner threatened her that if she divulge the same to others, she shall have to face dire consequences. Accordingly, Kharupetia P.S. Case No.112/2023 was registered.

The petitioner was apprehended on 04.05.2023 and since then, he is in custody.

Perused the case diary produced before the Court today, by Mr. Goswami, learned Additional Public Prosecutor, Assam.

From the note of the I.O. of the case, it is seen that both the petitioner and the informant got married about a year ago, though the informant was not 18 years of age at that point of time and presently, she is pregnant of about 3-4 months.

The statements of the independent witnesses so far recorded pertaining to the present case discloses that the petitioner and the informant had an affair since last more than two years and the informant used to visit the house of the petitioner and the petitioner also used to visit the house of the informant.

Considering the above and the period of detention of the petitioner in custody since 04.05.2023, the Court is of the view that further custodial detention of the petitioner is not warranted to investigate the said Kharupetia P.S. Case No.112/2023. As such, this bail application of the petitioner in said Kharupetia P.S. Case is accepted.

Accordingly, the petitioner, namely, **Md. Asadulla Hoque @ Asadullah Hoque @ Md. Asadullah**, be released on bail in said Kharupetia P.S. Case No.112/2023, on furnishing a bail bond of Rs.40,000/-, with 2 (two) local sureties of the like amount, to the satisfaction of the learned Chief Judicial Magistrate, Darrang, Mangaldai, on conditions that the petitioner shall – **(i)** appear before the Investigating Officer of said Kharupetia P.S. Case No.112/2023 as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the Kharupetia Police Station, without obtaining prior written permission from

the concerned Investigating Officer of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** he 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 them from disclosing such facts to the Court or to any police officer, failing which, the bail granted to him in the aforesaid Kharupetia P.S. Case No.112/2023 shall stand automatically vacated.

Return the case diary herewith.

Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant