

GAHC010114902023



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

Case No. : AB/1884/2023

RAHUL KUMAR SAHANI @ RAHUL SAHANI
S/O LATE RAMDAYAL SAHANI
R/O VILL- DHINGGATE
HAYBORGGAON
P.S. NAGAON SADAR
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR T H HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-06-2023

Heard Mr. T. H. Hazarika, learned counsel for the petitioner and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 438 CrPC, the petitioner, namely, **Rahul Kumar Sahani**

@ **Rahul Sahani** apprehending his arrest is seeking pre-arrest bail in Nagaon P.S. Case No. 297/2023 registered under Sections 120(B)/366 IPC with added Sections 6/17 of the POCSO Act corresponding to G.R. No.1168/2023.

The petitioner and the informant are neighbours.

As per the FIR of the case, on 21.03.2023, the daughter of the informant was kidnapped by the petitioner, who is a minor. Though the informant searched for his daughter, she could not be recovered and the informant lodged the FIR on 22.03.2023 which was accordingly registered as Nagaon P.S. Case No. 297/2023.

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

The victim in her 161 CrPC statement before police as well as in her 164 CrPC statement recorded by the learned Judicial Magistrate, First Class, Nagaon on 28.03.2023 stated that she at her own eloped with the petitioner and since last more than 1 year she had a love affair with the petitioner and that her mother brought her back from the house of the aunt of the petitioner at Numuligarh and they stated together for 6 days.

Medical report of the victim available in the case diary reveals that the victim is about 15 to 17 years of age and there is no evidence of recent forceful physical relation and there was no injury on the person of the victim including her private part.

Considering the above and the materials available in the case diary, the Court is of the view that custodial interrogation of the petitioner is not warranted to investigate said Nagaon P.S. Case No. 297/2023. As such, this pre arrest bail application of the petitioner is accepted.

Accordingly, it is provided that in the event of arrest of the petitioner, namely, **Rahul Kumar Sahani @ Rahul Sahani** in said Nagaon P.S. Case No. 297/2023, he shall be released on bail on furnishing bail bond of Rs. 50,000/-, with 2 (two) local sureties, of the like amount to the satisfaction of the arresting authority on conditions that the petitioner shall - **(i)** appear before the Investigating Officer of Nagaon P.S. Case No. 297/2023 on or before **28.06.2023** during the office hours and thereafter, as and when he is required for necessary investigation of said Nagaon P.S. Case; **(ii)** not leave the territorial jurisdiction of the Nagaon 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)** 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.

Further, the petitioner shall not threatened the victim and her other family members in any way and he shall not physically or mentally torture the victim, failing which, the bail granted to the petitioner in said Nagaon P.S. Case No. 297/2023 shall stands automatically vacated.

Any violation of the aforesaid terms and conditions by the petitioner, named above, the pre-arrest bail granted to him in the aforementioned Nagaon P.S. Case No. 297/2023 shall stand automatically vacated.

With the above observation and direction, this pre-arrest bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant