

GAHC010118322023



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

Case No. : AB/1983/2023

NAZMUL ISLAM
S/O SIRAJ UDDIN
R/O VILL- GERUATI
P.S.KHATOWAL
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K ROYCHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 06.11.2023

Heard Mr. P.K. Roychoudhury, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor appearing for the State.

This second petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely, **Nazmul Islam**,

apprehending his arrest in connection with **Khatowal P.S. Case No. 25/2022** registered u/s **341/328/376/506 IPC r/w Section 66 E/67A I.T. Act and r/w Section 25 (1-A) Arms Act.**

It may be mentioned that by order, dated 02.02.2023 passed in AB 2906/2022, this Court has rejected the pre-arrest bail application of the petitioner.

The case diary, as called for, is placed before the Court.

It may pertinently be mentioned that the earlier pre-arrest bail application being AB No. 2906/2022 was rejected assigning the following reasons:

“The statement of the victim was recorded under Section 164 CrPC, wherein she had clearly stated that when she was travelling in the vehicle with the petitioner, she drank some water, on being offered by the accused petitioner and subsequently, she became unconscious. When she regained her sense, she found herself in a confined room and her eyes were covered with clothes. After removing the clothes from her eyes, she found the petitioner in the said room. The accused petitioner threatened her by showing pistol and committed rape upon her by using force. After that, she was compelled to take some liquid forcefully, by the petitioner and after taking the same, she became dizzy and thereafter, the accused petitioner removed her clothes and took several photographs on his mobile and in the evening, he brought her to Rupohi and threatened her that if she disclosed about the incident to anybody, he would kidnap her brothers and sisters. About two days back, the petitioner uploaded her naked photographs in the Facebook, Instagram etc., which became viral. After going through the statement of the victim/informant as well as her photographs seized during investigation and the statements of other witnesses recorded by the Investigating Officer, this Court is of the opinion that the privilege of pre-arrest bail cannot be extended to the petitioner and accordingly, the prayer for pre-arrest bail made on his behalf is rejected.

With the aforesaid observations and directions this Anticipatory Bail Application stands disposed of."

On scrutiny of the case diary, it is noticed that there is sufficient prima facie incriminating material against the present petitioner. The investigation is also yet to be completed. On the other hand, the petitioner has not cited any new ground for moving the instant second pre-arrest bail application.

Therefore, the pre-arrest bail application of the petitioner stands rejected for the second time.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant