

GAHC010119242023



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

Case No. : AB/1944/2023

SADIK ALI
S/O MOJIBUR RAHMAN R/O VILL. MOHGULI P.S. GORCHIGA P.S. NORTH
LAKHIMPUR DIST. LAKHIMPUR ASSAM PIN 787054

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

14/06/2023

Heard Mr. A I Uddin, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

The petitioner, namely, **Sadik Ali**, has filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending his arrest in **North Lakhimpur P.S. Case No. 168/2023** registered under Section 365 IPC corresponding to G.R. No. 428/2023.

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

As per the FIR of the case lodged by the elder brother of the victim on 07.05.2023, while his sister on 05.05.2023 around 10:00 AM was on her way to North Lakhimpur Civil Hospital, the petitioner kidnapped his sister and accordingly, North Lakhimpur P.S. Case No. 168/2023 under Section 365 IPC corresponding to G.R. No. 428/2023 was registered against the petitioner.

Petitioner is an FIR named accused.

Perused the statement of the victim recorded under Section 161 Cr.P.C. as well her statement recorded under Section 164 Cr.P.C. on 20.05.2023 by the learned Judicial Magistrate, First Class, North Lakhimpur and the medical report of the victim.

Both in her statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., the victim stated that though she is less than 18 years by few months, she falsely told the petitioner that she is above 18 years of age as she had a relationship with him for last more than 3 years and her family was not willing to give her marriage with the petitioner. As such, both of them on 05.05.2023 eloped and went to Kerala by train and the father of the petitioner brought them back. She stated that as the petitioner came to know about lodging of the police case against them, he got down in some place while returning from Kerala by train and she does not know about the whereabouts of him.

As per the Birth Certificate of the victim seized by police, she was about 17 years 2 months on the date of the incident.

Considering the statement made under Section 164 Cr.P.C. and the medical report of the victim, the Court is of the view that custodial interrogation of the petitioner, named above, is not warranted to investigate the said North Lakhimpur P.S. Case No. 168/2023. As such, this pre-arrest bail application of the petitioner is accepted.

Accordingly, in the event of arrest of the petitioner, namely, **Sadik Ali**, in said **North Lakhimpur P.S. Case No. 168/2023** registered under Section 365 IPC, he shall be released on bail on furnishing a bail bond of Rs.50,000/- with 2 (two) local sureties of the like amount to the satisfaction of the arresting authority, subject to the conditions that the petitioner shall - **(i)** appear before the concerned Investigating Officer of said North Lakhimpur P.S. Case No. 168/2023 **on or before 19.06.2023** and thereafter, as and when he is required for necessary investigation of the

case; **(ii)** not leave the territorial jurisdiction of said North Lakhimpur Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Any violation of any of the aforesaid terms and conditions by the petitioner, named above, pre-arrest bail granted to him in said North Lakhimpur P.S. Case No. 168/2023 shall stand automatically vacated.

Accordingly, this pre-arrest bail application stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant