

GAHC010138982023



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

Case No. : Bail Appln./2225/2023

MONIR HUSSAIN
S/O IBRAHIM ALI
R/O TATIKATA PATHAR
WARD NO. 5,
P.S.MOIRABARI
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 23.06.2023

Heard Mr. S. M. Abdullah, learned counsel appearing for
the petitioner. Also heard Ms. S.H. Borah, learned Additional
Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioner, namely, Monir Hussain who is seeking bail in connection with Moirabari P.S. Case No. 217/2022 registered under Sections 342/376 of IPC. The petitioner was arrested on 01.06.2023 and since then he has been in custody.

3. The learned counsel for the petitioner submits that an FIR dated 09.11.2022 was lodged by the informant, wherein it was alleged that the petitioner had love affair with the informant since last 3 years, and on 02.11.2022 at about 10.00 a.m the petitioner called the informant in a hotel at Nagaon and she was kept by the petitioner in a hotel. Thereafter the petitioner sexually assaulted the informant and had fled away.

4. It is submitted on behalf of the petitioner that the victim/informant had a love affair with the petitioner and she went to the Nagaon hotel on her own volition and she had falsely alleged that the petitioner had committed rape upon her. The victim has earlier criminal antecedents and an FIR was lodged against her relating to kidnapping a minor and demanding Rs.1,60,000/-. The FIR was registered as Moirabari Police Station case No. 73/2019 under Sections 365/34 of IPC and the informant was arrested and forwarded to custody.

5. It is also submitted that no reasons have been assigned for the delay in lodgment of the FIR by the informant. The incident allegedly occurred in the night of the 02.11.2022 whereas the FIR was lodged on 09.11.2022. The petitioner is in jail since 01.06.2023. Investigation may have presumably

progressed to some extent.

6. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.50,000/- (Rupees fifty thousand) only with one local surety of like amount to the satisfaction of the Chief Judicial Magistrate, Morigaon. The bail is granted however, subject to the following conditions:-

- i) The petitioner shall continue to appear before the police and cooperate with the Investigating Officer as and when required, till completion of investigation.
- ii) The petitioner shall not change his residence or place of business, without prior written permission from the Court of Chief Judicial Magistrate, Morigaon.
- iii) That the petitioner shall not hamper or tamper with the investigation in any manner; and
- iv) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

7. If any of the conditions are found to be violated by the

petitioner then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.

8. With the above direction, the bail petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant