

GAHC010139722023



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

Case No. : Bail Appln./2240/2023

PWRWNGSAD GWRA BASUMATARY @ RAGHU BASUMATARY
S/O SRI MUNINDRA BASUMATARY
R/O VILL- 1 NO. NACHERBORI
P.O. PULISOMONI, P.S. GOHPUR
DIST. BISWANATH, ASSAM
PIN-784168

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2023

Heard Mr. R. De, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 filed by the petitioner, namely, *Pwrwngsad Gwra Basumatary @ Raghu*

Basumatary, who has been detained behind the bar since 06.05.2023 in connection with Gohpur P.S. Case No. 90/2023 under Sections 120(B)/366/376(D)/511/384/385/294 of the Indian Penal Code.

The accusation in this case is that on 05.05.2023, the victim lodged an FIR before the Officer-in-Charge of Howajan Police Out Post under Gohpur Police Station, *inter alia*, alleging that on 02.05.2023, the victim was picked by the present petitioner in a Blue Color BREZZA Vehicle and along with five of his friends made obscene videos of the first informant and also tried to molest the first informant, thereafter, demanded money. It is also alleged in the FIR that on 03.05.2023, the present petitioner again kidnapped the victim and took her to Arunachal Pradesh in the same vehicle and later on she was recovered by her family members on 04.05.2023. On receipt of the said FIR, Gohpur P.S. Case No. 90/2023 was registered.

Learned counsel for the petitioner, on the other hand, submits that the victim and the petitioner are known to each other and the victim herself accompanied the petitioner on 02.05.2023 and they consumed liquor and they were later on attacked by four other unknown persons and who also made the video of the victim and also tried to molest her and also demanded money from her. However, it is also submitted that the victim and the present petitioner on their own had left for Arunachal Pradesh on 03.05.2023. Later on, when the family members of the victim had lodged an FIR, they themselves came back to their residence. It is also submitted by learned counsel for the petitioner that the allegations made in the FIR by the victim are false and it appears that she was compelled to make said allegations by her family members.

Learned Additional Public Prosecutor has placed the case diary which was called for before this Court.

I have perused the case diary.

Learned Additional Public Prosecutor submits that the story narrated by the petitioner appears to be true from the materials available in the case diary as the victim has not implicated the petitioner in her statement recorded under Section 164 Cr.P.C.

Considering the submissions made by learned counsel for the petitioner as well as learned Additional Public Prosecutor and also considering the materials in the case diary as well as period of detention already undergone by the present petitioner (74 days), further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of Gohpur P.S. Case No. 90/2023.

In view of above, the petitioner, namely, *Pwrrwngsad Gwra Basumatary @ Raghu Basumatary* is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of learned SDJM, Gohpur, subject to the condition that the petitioner shall cooperate with the Investigating Officer as well as 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 him from disclosing such facts before the trial court.

With the above observation, this instant bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant