

GAHC010140752023



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

**Case No. : AB/2270/2023**

ASHIDA KHATUN @ ASHADA  
D/O HAFEJ SK. @ HAFEZUDDIN  
R/O VILL- MOHANPUR PT.I  
P.S. JOGIGHOPA  
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR H DAS**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**  
**ORDER**

**03.08.2023**

Heard Mr. H. Das, learned counsel for the applicant and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

**2.** Apprehending arrest in connection with Goalpara P.S. Case No. 69/2017, corresponding to Special [POCSO] Case No. 04/2020 pending before

the Special Judge, Goalpara, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Ashida Khatun @ Ashada for grant of pre-arrest bail.

**3.** The said case has been registered on the basis of one F.I.R., lodged by one Sahena Khatun, on 08.09.2016. The essence of allegation made in the FIR is that on 03.09.2016, at about 10 am, the applicant Ashida Khatun had taken her friend Smti 'X' [name withheld], to Kabaitari from Pasania M.E. School to take some photographs. Thereafter, she had handed over the victim girl to accused No. 2, Ashad Ali. Then Ashad Ali kidnapped her and took her to an unknown place at Goalpara and confined her in a room and committed rape on her and also planned to sale her at Delhi.

**4.** Mr. Das, learned counsel for the applicant submits that the applicant is the friend of the victim girl and that after completion of investigation charge sheet has been submitted against the present applicant and the accused No. 2, Ashad Ali by showing both of them as absconder. Mr. Das also submitted that the present applicant has been charge sheeted under Sections 366[A]/114 of the IPC only and that she is ready to face trial and the case is of the year 2016 and the other accused has already been arrested, and therefore, it is contended to allow the petition.

**5.** On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor has opposed the petition by stating that the materials available in the scanned copy of the record shows her complicity with the offence alleged in the FIR and she has been absconding since long and she has filed a petition before the learned Special Judge, POCSO, Goalpara for granting pre-arrest bail, but, later on she has not pressed the petition, for which, the learned court

below has issued Non-Bailable Warrant of arrest against her, and therefore, it is contended to dismiss the petition.

**6.** Having heard the submissions of learned Advocates of both sides, I have carefully perused the petition as well as the documents placed on the record and also perused the scanned copy of the record with the assistance of Mr. Sarma, learned Addl. P.P.

**7.** It appears that the investigation has already been completed and the applicant has already been charge sheeted under Sections 366[A]/114 of the IPC and now the case is pending before the learned Special Judge, POCSO, Goalpara.

**8.** In view of the materials available on the record and also in view of the nature of accusation and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant.

**9.** But, Mr. Das, learned counsel for the applicant submits that the applicant has 3 children to look after and in the meantime her husband divorced her, and that she will appear before the learned court below regularly and therefore, it is contended to extend the privilege of pre-arrest bail till her appearance before the learned court below.

**10.** Having regards to the submission of Mr. Das, learned counsel for the applicant this Court is inclined to dispose of this anticipatory bail application by directing the applicant to appear before the learned Special Judge, POCSO, Goalpara on 11.08.2023 and to apply for regular bail and in the event of filing such an application the learned court below shall consider the same in

accordance with law.

**11.** In the meantime and in the event of arrest of the applicant, in connection with Goalpara P.S. Case No. 69/2017, corresponding to Special [POCSO] Case No. 04/2020 pending before the Special Judge, Goalpara, it is provided that she shall be enlarged on interim pre-arrest bail on her executing a bond of Rs. 25,000/- (Rupees twenty-five thousand) only with one surety of like amount to the satisfaction of the arresting authority, till 11.08.2023.

**12.** The above privilege is, however, subject to the following conditions:

(i) that the applicant 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 to the Court or to any police officer;

(ii) that she shall appear before the learned Special Judge, POCSO, Goalpara on 11.08.2023; and

(iii) that the applicant shall not leave the jurisdiction of the learned Special Judge, POCSO, Goalpara, without prior permission.

**13.** In terms of above, this AB stands disposed of.

**14.** The scanned copy of the record be returned.

**JUDGE**

**Comparing Assistant**