

GAHC010149842023



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

Case No. : AB/2378/2023

RUSHWAD ALAM @ ROUSHAN KHAN @ LAKHMI
S/O- ABDUR RAHIM @ RASHID ALI, R/O- VILL- NO. 2 DHUHI, P.O. KAYAN,
P.S. KAYAN, PIN- 781350, DIST.- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : SIRAJ CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

28.07.2023

Heard Mr. S. Choudhury, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Rushwad Alam @ Roushan Khan @ Lakhmi, who is apprehending his arrest in connection with Kayan Police Station Case No. 31/2023 under section 448/376/511/354A of the Indian Penal Code.

The accusation against the present petitioner is that on 05.06.2023, the victim/informant lodged an FIR before the Officer-in-Charge of Kayan Police Station, *inter-alia*, alleging that on the day of lodging the FIR at about 10:00 A.M., the present petitioner entered the house of the victim in the absence of her family members and grabbed her and tried to commit rape on her and when she shouted at him, he left the scene.

Learned counsel for the petitioner has submitted that the allegations made against the present petitioner in the FIR is false and infact the present petitioner was having a romantic relationship with the first informant and they were committed to marry each other. However, it is also stated that the family members of the informant pressurized the present petitioner to marry her immediately and when it was stated that as parents of the present petitioner was leaving for Haj (Saudi Arabia) and he would marry her after their return. The petitioner was pressurized to marry the informant before his parents leaves for Haji and a dispute arose between the petitioner as well as first informant and thereafter, it is stated, that the present FIR has been lodged.

Learned Additional Public Prosecutor has placed the case diary of Kayan Police Station Case No. 31/2023 which was called for in connection with this case and has submitted that in her statement recorded under section 164 Cr.P.C., the informant/victim has implicated the present petitioner and has stated that he attempted to commit rape on her.

It appears that on perusal of the case diary the Investigating Officer has

recorded the statement of other witnesses under section 163 Cr.P.C. and considering the nature of the allegations levelled against the present petitioner and the materials available the case diary, custodial detention of the present petitioner does not appear to be necessary if he co-operates with the Investigating Officer of Kayan Police Station Case No. 31/2023. Hence, the petitioner, namely, Rushwad Alam @ Roushan Khan @ Lakhmi is hereby directed to appear before the Investigating Officer of Kayan Police Station Case No. 31/2023 within a period of 10(ten) days from the date of this order. If he does so within the stipulated time, in the event of his arrest in connection with Kayan Police Station Case No. 31/2023, he shall be allowed to go on bail, on furnishing a bond of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, with the conditions that (i) the petitioner shall co-operate with the Investigating Officer of Kayan Police Station Case No. 31/2023 and (ii) the petitioner 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 or her from disclosing such facts to the Investigating Officer.

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

Send back the case diary.

JUDGE

Comparing Assistant