

GAHC010156112023



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

Case No. : AB/2594/2023

HARUN RASHID
S/O ABDUL MAJID
R/O SATIANTALI
P.S. LAHARIGHAT
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:FARIDA KHATUN
W/O ALI HUSSAIN
R/O AMARAGURI
WARD NO. 5
P.S. LAHARIGHAT
DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR H R A CHOUDHURY
Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

22-08-2023

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Ms. R. Deka, learned counsel

for the petitioner and Ms. A. A. Begum, learned Additional Public Prosecutor, Assam for the State.

By this application filed under Section 438 Cr.P.C., the petitioner, namely, **Harun Rashid**, apprehending his arrest, is seeking pre-arrest bail in Laharighat Police Station Case No. 21/2023 corresponding to G.R. Case No. 154/2023 registered under Section 376AB IPC read with Section 8 of the POCSO Act, 2012.

Earlier the petitioner approached this Court for his pre-arrest bail in said Laharighat P.S. Case No. 21/2023 in AB No. 1796/2023 and on perusal of the case diary, the Court by order dated 27.06.2023 rejected the said pre-arrest bail application of the petitioner.

This is second pre-arrest bail application of the petitioner in said Laharighat P.S. Case No. 21/2023.

From the order of the Court dated 27.06.2023 passed in said AB No. 1796/2023, it appears that another police case being Laharighat P.S. Case No. 19/2023 under Sections 356/368 IPC was registered against the petitioner.

Mr. Choudhury, learned Senior counsel for the petitioner has placed before the Court a copy of the FIR dated 28.01.2023 pertaining to said Laharighat P.S. Case No. 19/2023 to show that the FIR of said Laharighat P.S. Case No. 19/2023 does not implicate the petitioner though he was named in the FIR as father of another accused person. Mr. Choudhury, learned Senior counsel for the petitioner stated that in the said FIR relating to Laharighat P.S. Case No. 19/2023, the informant implicated the names of two other accused persons and not the petitioner.

Perused the case diary of Laharighat P.S. Case No. 21/2023 placed before the Court today by Ms. Begum, learned Additional Public Prosecutor, Assam and also perused the statement of the victim girl recorded under Section 164 CrPC on 01.02.2023 by the learned Additional Chief Judicial Magistrate, Morigaon.

From 164 CrPC statement of the victim, it is seen that she is of 10 years old studying in Class-IV and that the minor victim girl implicated the petitioner regarding his involvement in the alleged crime.

It is also seen from the case diary that taking advantage of absence of the family members of the victim in her house, the petitioner on 31.01.2023 committed the alleged crime at around 09:00 in the morning which the victim informed to her mother. In that regard, an FIR was lodged on

01.02.2023 and accordingly, said Laharighat P.S. Case No. 21/2023 was registered against the petitioner.

Considering the statement of the minor victim girl recorded under Section 164 CrPC and finding sufficient incriminating materials against the petitioner with regard to his involvement in the alleged crime, the Court is of the view that it is not a fit case to grant pre-arrest bail to the petitioner, **Harun Rashid** in said Laharighat P.S. Case No. 21/2023.

Accordingly, this application of the petitioner seeking pre-arrest bail in said Laharighat P.S. Case No. 21/2023 corresponding to G.R. Case No. 154/2023, stands rejected.

Return the case diary.

JUDGE

Comparing Assistant