

GAHC010163202023



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

Case No. : AB/2622/2023

MUSTAFIZUR RAHMAN
S/O- LATE MEHBUR ALI, R/O- VILL.- DALBARI, P.O. SOLMARI, P.S. AND
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A GANGULY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 24-08-2023

Heard Mr. A. Ganguly, learned counsel for the applicant and also heard Ms. S. H. Bora, learned Addl. P.P. for the State respondent.
Apprehending arrest in connection with Morigaon P. S. Case No. 231/2023, u/s 328/ 342 /354 /354-(A) /506/ 509 IPC, this application under Section 438 Cr.P.C,

is preferred by the applicant, namely, Mustafizur Rahman for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Smt 'X' (name withheld) on 16/6/2023.

The essence of allegation made in the FIR is that the applicant had administered psychotropic substance to the informant in her office at Dandua Gaon Panchayat and taken her in his car to a house and there he subjected to her to sexual harassment and also took photograph of such harassment by showing a pistol and thereafter, he made the said photograph viral in the social media.

Mr. Gangly learned counsel for the applicants submits that in fact there was an affair between the applicant and the informant and later on, her husband came to know about the same and then to save her skin, the informant has lodged this case falsely and that there is delay of one and half months in filing the FIR and without any plausible explanation and that the applicant is ready to cooperate with the investigating Agency and therefore, it is contended to allow this petition.

On the other hand, Ms. Bora, learned Addl. P.P. has vehemently opposed the petition and producing the case diary before the Court, she submits that I.O. has collected sufficient materials in the case diary against the applicant.

Having heard the submissions of learned Advocate for both sides, I have carefully gone through the petition and the document placed on record and also perused the case diary with the assistance of Ms. Bora, learned Addl.P.P.

It appears that initially the case has been registered u/s 328/ 342 /354 / 354-(A) /506 / 509 IPC and further it appears that Section 376 IPC is added later on. Further, it appears that I.O. has collected sufficient incriminating

materials in support of the allegation made in the FIR. The offence is serious in nature and enlarging the applicant on pre-arrest bail, at this stage will hamper the investigation.

Under the aforesaid facts and circumstances, this Court is of the considered opinion that this is not a fit case where privileges of pre-arrest bail can be granted to the applicant and accordingly, the petition stands dismissed.

Case diary be returned.

JUDGE

Comparing Assistant