

GAHC010170542023



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

Case No. : AB/2721/2023

POLIN BORAH
SON OF LATE SIVA PRASAD BORAH, VILLAGE BALIPUKHURI TINIALI, P.O.
BALIPUKHURI TINIALI, P.S. TEZPUR, DISTRICT SONITPUR, ASSAM, PIN-
784154

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM

2:SRI PRASANTA BORAH
S/O- SRI HOMESWAR BORAH
VILL- BESSERIA KONAIBORAH CHUBURI
P.O. BESSERIA
P.S BEBEJIA
DIST.- SONITPUR
ASSAM
PIN- 78415

Advocate for the Petitioner : MR. B BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 12.10.2023

Heard Mr. B.K.Mahajan, learned counsel for the petitioner as well as Mr. R.R.Kaushik, learned

Addl. P.P., Assam for the State respondent No.1. Also heard Mr. N Anand, learned Amicus Curiae for the respondent No.2.

By this petition filed under Section 438 Cr.P.C., the petitioner, namely, **Polin Borah** has prayed for granting pre-arrest bail, apprehending arrest in connection with **Tezpur P.S. Case No.584/2023** (GR No. 1440/2023) under Section 12 of the POCSO Act.

The case diary is placed before the court.

It is submitted the learned counsel for the petitioner that the present petitioner is a government employee serving as an Assistant Teacher in Besseria Adarsha Girls High School, Besseria, Sonitpur. The allegation against the petitioner is totally false. In fact the victim has failed to pay the tuition fees and as such, allegation has been made against the petitioner with an ulterior motive.

It is also submitted by the learned counsel for the petitioner that there is no physical contact between the petitioner and the victim as stated in the FIR. Only some remarks has been made by the petitioner towards the victim for which the offence does not come under the purview of Section 12 of the POCSO Act.

On the other hand, the learned Addl.P.P. for the respondent No. 1 as well as the learned Amicus Curiae representing the respondent No.2 fairly submit that considering the materials available in the case diary as well as the statements of the victim, prayer of the petitioner may be considered with some conditions thereon.

I have considered the submissions made by the parties.

Perused the case diary as well as statements of the victim under Section 164 Cr.P.C..

From the statements of the victim, it reveals that some remarks has been made by the petitioner towards her. It is a question as to whether such remarks has covered the provision of Section 12 of POCSO Act as sexual harassment.

However, considering the facts and circumstances of the case as emerges from the case diary, the prayer for anticipatory bail is hereby granted.

It is provided that in the event of arrest of the petitioner, named above, he shall be released on **pre-arrest bail**, in connection with the above noted case on furnishing bail bond of **Rs.10,000/- (Ten Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of

course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 10 days from today, failing which, on the 11th day, the anticipatory bail order shall automatically expire;
- (ii) That 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/her from disclosing such facts to the Court or to any police officer.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant