

GAHC010174892023



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

Case No. : AB/2787/2023

MEHEBUL HOQUE @ MEHEBUL ISLAM
S/O MOKMOL ALI
VILL- SURJYAKHATA PART-II
P.O. AND P.S. BILASIPARA
DIST. DHUBRI, ASSAM
PIN-783348

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-08-2023

Heard Mr. M. Hussain, learned counsel for the applicant and also heard Mr. R. R. Kaushik, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Bilasipara P.S. Case No. 235/2023

registered under Sections 376(1)/420/294 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Mehebul Hoque @ Mehebul Islam for grant of pre-arrest bail.

The essence of allegation made in the FIR, dated 30.6.2023, lodged by informant Smt 'X' (name withheld) is that she was in relationship with the accused for about four years, who promised to marry her and committed sexual intercourse with her, against her will, and on 11.6.2023, at about 5 AM he called her to his house with a view to marry her and accordingly she went there, but the accused refused to marry her and she stayed in his house about 14 days and during that period he committed sexual intercourse with her against her will and on 24.6.2023 at about 4 PM, his family members, namely, Mehera Bibi, Mizanur Rahman and Moinul Haque driven her out of their house using abusive language.

Mr. Hussain, learned counsel for the applicant submits that applicant and the informant was in relationship for about 4 years and both of them are major and there was no inducement on the part of the applicant and the allegation leveled against him are false and he is ready to cooperate with the Investigating Agency and therefore, it is contended to allow this petition.

On the other hand, Mr.Kaushik, learned Addl. P.P.has produced the case diary before this Court and referring to the statement of the victim woman recorded u/s 164 Cr.P.C. Mr. Kaushik submits that there is material against the applicant, and therefore, it is contended to dismiss the petition.

Having heard the submission of learned Advocates of both sides, I have perused the petition and the documents placed on record and also perused the case diary, specially the statement of the victim girl recorded u/s 164 Cr.P.C.

Having considered the submission of learned Advocate of both sides and also

considering the materials collected so far in the case diary, custodial interrogation of the applicant seems to be unwarranted herein this case. And accordingly, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, in connection with Bilasipara P.S. Case No. 235/2023, registered under Sections 376(1) /420/ 294 IPC, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/- with one surety of like amount to the satisfaction of the arresting authority.

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

1. That the applicants shall make himself available for interrogation by the Investigating Officer as and when required;
2. 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; and
3. That the applicants shall not leave the jurisdiction of the concerned learned Judicial Magistrate, Bilasipara.

In terms of the above this A.B stands disposed of .

Case diary be returned.

JUDGE

Comparing Assistant