

GAHC010180312023



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

Case No. : AB/2913/2023

RAJU SHEIKH @ RAJU SK AND 3 ORS
S/O AMER ALI
R/O VILL- BENGERVITA
P.O. KALAPANI
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783135

2: AMER ALI
S/O LT. WAHED ALI
R/O VILL- BENGERVITA
P.O. KALAPANI
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

3: ASHADUL ALOM @ ASHRAFUL
S/O AMER ALI
R/O VILL- BENGERVITA
P.O. KALAPANI
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

4: NAZIBUL ISLAM @ RAJIB ALI
R/O VILL- BENGERVITA
P.O. KALAPANI
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

2:AMZAD ALI
S/OLT. BODOR UDDIN
P.O. MANULLAPARA
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 20/12/2023

Heard Mr. M. R. Khandakar, learned counsel for the petitioners. Also heard Mr. B. Bhuyan, learned Additional Public Prosecutor appearing for the State of Assam.

2. This Anticipatory bail petition under Section 438 Cr. P.C. has been filed by the petitioners, namely, 1. Raju Sheikh @ Raju Sk, 2. Amer Ali, 3. Ashadul Alom @ Ashraful and 4. Nazibul Islam @ Rajib Ali are apprehending arrest in connection with Mankachar Police Station Case No. 302/2023 (corresponding to G.R. Case No. 709/23), which is registered under Sections 366(A)/343/376(3)/326/34 of IPC read with Section 6 (1) of POCSO Act.

3. By an FIR dated 21.07.2023 lodged by the informant, one, Amzad Ali, it was alleged that the accused/petitioner no.1 took away his minor daughter, who was aged about 15 years with an inducement to marry her. Subsequently she was recovered in an injured condition. And on being asked, the victim girl stated that the accused/petitioner No.1 took her to different places with inducement to

marry her and entered into physical relationship with her and thereafter accused/petitioner Nos. 2, 3 and 4 had assaulted her with lathi and seriously injured her in different parts of the body when the accused/petitioner No.1 took her to his house.

4. The said FIR was received and registered as Mankachar Police Station Case No. 302/2023 (corresponding to G.R. Case No. 709/23), which is registered under Sections 366(A)/343/376(3)/326/34 of IPC read with Section 6 (1) of POCSO Act.

5. Case Diary as directed has been produced before this Court today by the learned Additional Public Prosecutor.

6. Upon careful perusal of the case diary, it is seen that the statement of the victim girl under Section 164 Cr.P.C has been recorded and she admits voluntary physical relationship with the accused No.1. However, the medical report available in the case diary does not reflect any evidence of physical relationship although the injuries on the body of the person have been recorded. From the perusal of the Case diary, it is seen that the matter is still under investigation. However, no materials which incriminate the petitioners Nos. 2, 3 and 4 are seen from the Case Diary at this stage of investigation.

7. And accordingly, this Anticipatory Bail petition is allowed in so far petitioners Nos. 2, 3 and 4 are concerned. In the event of their arrest in connection with the aforesaid case, the petitioners shall be released furnishing a bail bond of Rs.20,000/- (Rupees twenty thousand) only each with a local surety of like amount. The bail granted however, is subjected to the following conditions:-

1. That the petitioners shall appear before the Investigating Officer within 10(ten) days and co-operate

in the investigation as and when required;

2. The petitioners shall not leave the territorial jurisdiction of the police station, without prior written permission from Officer-in-Charge, Mankachar Police Station.

3. That the petitioners shall not hamper or tamper with the investigation in any manner; and

4. That the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person/witness 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 in connection to this Police Station Case.

8. If any of the conditions are found to be violated then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the petitioners.

9. Prayer for Anticipatory bail in so far as the petitioner No.1 is concerned is rejected at this stage in view of the materials available in the case dairy.

10. It is also from the case record that Notices on respondent No.2, who is the informant has also been served as is revealed from the Office report.

11. Anticipatory bail petition is accordingly stands disposed of.

12. Return the case dairy.

JUDGE

Comparing Assistant