

GAHC010181032023



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

Case No. : AB/2920/2023

RABI CHANDRA SEAL @ RABI SEAL
S/O MEGHNATH SEAL R/O GATANGA SHANTIBAN PATH P.O.
BALIPUKHURI TINIALI P.S TEZPUR DIST. SONITPUR ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:ANJALI ARYA
D/O PRANJAL SAIKIA I/C DISTRICT CHILD PROTECTION OFFICER
TEZPUR R/O FAUZDARI PATTY M C B ROAD HOUSE NO. 222 P.S NAGAON
DSIT. NAGAON ASSA

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 12.09.2023

Heard Mr. B.K.Mahajan, learned counsel for the petitioner. Also heard Mr. D.P.Goswami, learned Addl. Public Prosecutor for the State/respondent No.1. Mr. A Sharma, learned counsel appears for the respondent No.2.

By this petition filed under Section 438 Cr.P.C., the petitioner, namely, **Rabi Chandra Seal @ Rabi Seal** has prayed for granting pre-arrest bail, apprehending arrest in connection with **Tezpur P.S. Case No.587/2023** under Section 354A of the IPC r/w Section 8 of POCSO Act.

The case diary is placed before the court.

Mr. B.K.Mahajan, learned counsel for the petitioner, submits that the petitioner is named in the FIR. It has been further submitted that no offence under Section 8 of the POCSO Act is attributed in this case and the petitioner is a government servant holding the post of B.E.E.O., Gabharu, Tezpur.

Mr. D.P.Goswami, learned Addl. Public Prosecutor, submits that in her statement under Section 164 CrPC, the victim girl, aged about 15 years, who worked as a domestic helper, has implicated the petitioner with the offence of commission of sexual assault on her, who stayed at his home, about 1(one) year ago before filing of the FIR, on 10.07.2023, by the District Child Protection Officer (DCPLI), Sontipur.

The FIR reveals the allegation that the present petitioner has sexually harassed the victim girl, aged about 15 years and touched her upper part of the body.

A bare perusal of the FIR, dated 07.07.2023, it transpires that the allegation has been made after 1(one) year from the date of alleged occurrence without any explanation for the delay.

The case diary reveals that victim left the house of the informant as the petitioner's wife scolded at her.

This is a *prima facie* case of sexual assault for which prescribed punishment under Section 8 of the POCSO Act is imprisonment for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.

Investigation appears to have substantially progressed.

Having heard the learned counsel of both sides and keeping in consideration the nature of evidence so far collected by the investigating officer, this court is of the opinion that if the privilege of pre-arrest is granted to the petitioner, the ongoing investigation is unlikely to be adversely affected.

Accordingly, 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.30,000** 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 7 days, failing which, on the 8th day, the anticipatory bail order shall automatically expire; and
- (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.

It is made clear that no further extension will be granted to the petitioner if he fails to appear before the I.O. within 7 days.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant