

GAHC010202462023



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

Case No. : AB/3280/2023

BABU BUTLER @ JAMENSON BUTLER
S/O LATE ERIC BUTLER,
VILL- SANTIPUR, P.O. SILONIJAN
P.S. BORPATHAR
DIST. KARBI ANGLONG, ASSAM
PIN-782480

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:SRI MAIRAM TISSO
S/O LT. CHINGNOT TISSO
VILL- RASOTISSO
P.S. BORPATHAR
DIST. KARBI ANGLONG
ASSAM
PIN-78248

Advocate for the Petitioner : MR A SARANIA
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 06.11. 2023

Heard Mr. A. Sarania, learned counsel for the petitioner and Ms. SH Bora, learned Addl. Public Prosecutor for the State respondent No. 1. Also heard Mr. A. Ahmed, learned counsel for the respondent No. 2.

This is an application under Section 438 Cr.P.C., filed by the petitioner namely Sri Babu Butler @ Jameson Butler, praying for pre- arrest bail, who is apprehending arrest in connection with Borpathar PS. Case No. 36/2023 under Sections 448/354A IPC read with Section 8 of POCSO Act.

Case diary is received and perused.

It is submitted by the learned counsel for the petitioner that the incident took place in the house of late Borsing Rongpi, Ex- M.A.C. wherein the victim girl was working as house maid and the petitioner was not residing in the said campus. However, the petitioner has a motor vehicle washing centre which is one and half kilometer away from the place of occurrence. It is further submitted that the petitioner is a married person and he is no way connected with the alleged offence. The petitioner may be released on pre-arrest bail.

The learned Addl. PP has raised objection against the prayer of bail and has submitted that there are allegation against the petitioner which was supported by the statement of the victim recorded under Section 164 Cr.P.C. and the petitioner used to come in the complex of the victim where she worked as house maid.

Mr. A. Ahmed, learned counsel for the respondent No. 2 has fairly submitted that though it is alleged in the FIR that the petitioner touched her private parts which is missing in the statement of the victim recorded under Section 164 Cr.P.C.

I have considered the submissions of the learned counsel for the parties.

I have perused the case diary including the statement of the victim recorded under Section 164 Cr.P.C. wherein she alleged that the petitioner hugged and kissed her and tried to remove her clothes.

Considering the submissions of the learned counsel for the parties as well as the background of the case, this Court is of the view that the benefit of pre-arrest bail may be extended to the accused/ petitioner

In view of the above, it is directed that the petitioner be released on pre-arrest bail on furnishing a bond of Rs. 10,000/- with one suitable surety of like amount in connection with Borpathar PS. Case No. 36/2023 under Sections 448/354A IPC read with Section 8 of POCSO Act to the satisfaction of the arresting authority subject to the following conditions that:-

1. the petitioner shall appear before the I.O. within 10 (ten) days from today.
2. the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
3. 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 any other police officer; and
4. the petitioner shall not hamper with the investigation or temper with the evidence of the case.

The bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant