

GAHC010204892023



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

Case No. : AB/3159/2023

RAHMAN ALI @ RAKMAN ALI
S/O ABDUS SALAM VILL NO. 3 GORAIMARI, P.S PANBARI, DIST- CHIRANG
(ASSAM)

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PUBLIC PROSECUTOR, GOVT OF ASSAM .

2:ABDUL KARIM
S/O LATE FULMAMUD VILL NO 1 KAWADI
P.O. PATILADAHA
P.S. MANIKPUR
DIST- BONGAIGAON (ASSAM) PIN - 78339

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 15-11-2023

Heard Ms. R. Choudhury, learned counsel for the petitioner and Mr. B. Sharma, learned
Addl. P.P., Assam.

2. The petitioner Rahman Ali @ Rakman Ali has filed an application u/s 438 Cr.PC with prayer of pre-arrest bail as he is apprehending arrest in connection with Manikpur Police Station Case No. 144/2023 under Sections 363/376 IPC read with Section 4 of POCSO Act.

3. The notices have been issued to respondent No. 2 and Office Note indicates that notices have been served to respondent No. 2. The allegation against the petitioner is that on 04.08.2023 while the victim 'X' was returning along with her brother, the petitioner kidnapped her on his Alto car and thereafter committed rape on her and at midnight at about 2:30 AM abandoned the victim. The victim then returned to her uncle's house and then the informant learnt about the incident. It is submitted by the learned counsel for the petitioner that the incident occurred on 04.08.2023 but the FIR was lodged after two days which casts a shadow of doubt over the veracity of the information. It is also submitted on behalf of the petitioner that the petitioner is well acquainted with the family members of the victim and on the day of the incident the petitioner had given a lift to the victim who was with another boy on his bike and not in an Alto car.

4. The learned Addl. P.P. has raised objection stating that there are incriminating materials against the petitioner, although no injuries relating to sexual assault were detected by the Medical Officer. It is submitted that the victim was examined by the Medical Officer after more than 48 hours and so no such injuries were detected on examination of the victim by the Medical Officer.

5. I have considered the submissions at the Bar with circumspection. I have also perused the Case Diary. There are indeed incriminating materials against the petitioner in the Case Diary. The import of the sections under which the petitioner is booked does not entitle the petitioner of anticipatory bail at this juncture. It appears that investigation may be adversely affected if the petitioner is insulated by an order of anticipatory bail at this stage of investigation. There is no justifiable ground to grant anticipatory bail to the petitioner at this stage of investigation. So the petition is rejected at this stage.

Send back the Case Diary.

JUDGE

Comparing Assistant