

GAHC010216752023



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

Case No. : AB/3313/2023

JAHED ALI @ JAHAD ALI MIAH
S/O HAJI ASOR UDDIN
PERMANENT RESIDENT OF VILL- RANGAMATI HILLS, BOGRIBARI P.S.
BOGRIBARI, IN THE KOKRAJHAR DISTRICT OF ASSAM

VERSUS

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

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

21.12.2023

Heard Mr. AW Aman, learned counsel for the petitioner. Also heard Ms. SH Bora, learned Additional Public Prosecutor, Assam appearing for the State respondents.

This is an application under Section 438 Cr.P.C. for granting the privilege of pre-arrest bail to the petitioner, namely, Jahed Ali @ Jahad Ali Miah, who is apprehending

arrest in connection with Bogribari P.S. Case No. 105/2023 under Sections 346/376(1) IPC.

Case diary is received.

It is submitted by the learned counsel for the petitioner that the petitioner resides in the backside of his shop with his family and had the alleged offence had occurred inside his shop his family would have known about the occurrence. The learned counsel for the petitioner further stated that immediately on the next date of the alleged occurrence, the victim had demanded Rs.10,000/- (Rupees Ten Thousand) from the petitioner. It is also stated that if the money is not paid, the victim would lodge a case against the petitioner alleging sexual offence. According to the learned counsel for the petitioner, the petitioner has been falsely implicated in the alleged offence, therefore, the benefit of pre-arrest bail may be extended to him.

In response, the learned Additional Public Prosecutor has submitted that the victim had implicated the petitioner to be involved in the alleged offence in the statement recorded under Section 164 Cr.P.C., as such she has opposed in granting of bail to the petitioner.

I have perused the case diary as well as the statement of the victim, wherein she had stated that on the date of the incident at night she was sitting in the verandah of a shop at Panbari at about 10.30 P.M., when the shopkeeper came out from his shop and took her inside and committed rape on her. The victim also stated that at that time her son was also present along with her, although, the age of her son is not reflected in the application.

It is interesting to note that the name of the person is not mentioned in the statement of the victim recorded under Section 164 Cr.P.C. as to who had committed rape on her. From the case diary, it cannot be ascertained as to whether the shopkeeper had been identified after the incident.

In view of the above, this Court is inclined to grant the privilege of pre-arrest bail

to the petitioner.

The petitioner shall appear before the Investigating Police Officer within a period of 10 (ten) days from today, and, in the event of his arrest, he shall be released on furnishing a bail bond of Rs. 10,000/- with one suitable surety of the like amount to the satisfaction of the arresting authority, on the following conditions:-

1. The petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer-in-charge,
2. The petitioner shall not hamper with the investigation, or tamper with the evidence of the case, and
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 from disclosing such facts to the Court or to any police officer.

The application accordingly stands disposed of.
Return the case diary.

JUDGE

Comparing Assistant