

GAHC010226772022



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

Case No. : AB/3308/2022

BABUL ISLAM @ BABUL ALI
S/O. MD. MUNTAZ ALI, R/O. POTEKIBORI, P.S. MAYANG, DIST. MORIGAON,
ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

06.02.2023

Heard Mr. D. Medhi, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Addl.P.P. appearing for the State respondent.

The petitioner, namely, Babul Islam @ Babul Ali, has filed an application under Section 438 Cr.P.C. with a prayer for pre-arrest bail as he is apprehending

arrest in connection with PRC No. 1664/2020, under Sections 363/343/376/34 IPC arising out of Mayang P.S. Case No. 101/2019.

Charge-sheet has been laid against the petitioner Babul Islam @ Babul Ali showing him as absconder.

I have considered the submissions at the bar.

The FIR unfolds that on 18.04.2019 at around 6:30 P.M. Babul Islam along with Rabbul Hussain and Md. Shah Jahan Ali lured the informant/victim and took her to Manipurtup at Patekibori village and three of them forcefully committed rape on her. At the point of a dagger, they gagged her by her mouth to commit the offence. Thereafter, they took her to their house and locked her in a room and sexually assaulted her for 3 days.

It is submitted on behalf of the petitioner that a false case has been slammed against the petitioner. He is willing to co-operate with the trial. He has pledged not to make any inducement or threat to any person acquainted with the facts of this case. He has also relied on the decision of a Co-ordinate Bench of this Court in connection with Case No. A.B. 3177/2022 wherein it has been observed that the accused was not declared as a proclaimed offender by the Court of the CJM at Morigaon and so the accused was granted pre-arrest bail.

The learned counsel for the petitioner has prayed that this is a similarly situated case. Bailable warrant has been issued against the petitioner and so the petitioner is apprehending that if he appears before the Court of the learned CJM he will be forwarded to custody as he is booked under a serious offence.

The learned Addl. P.P. has raised serious objections stating that the statement of the victim is yet to be recorded and charge is not yet framed and at this stage, if the petitioner is admitted to bail, there is every possibility that he may exercise threats on the victim.

I have perused the scanned copies of the LCR and statements of the witnesses.

I have also considered the fact that the charge has not been framed and the evidence of the victim is yet to be recorded.

At this juncture, there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioner, who is booked under a serious offence.

It appears from the conduct of the petitioner that he has been evading arrest.

The petition stands rejected.

Send back the case diary.

JUDGE

Comparing Assistant