

GAHC010235172023



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

Case No. : AB/3553/2023

RAMJAN ALI
S/O LATE HATEM ALI
R/O VILL- BHABANIPUR
P.S. AMGURI
DIST. CHIRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. U B SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

08.11.2023

Heard Mr. U.B. Sarma, learned counsel for the petitioner. Also heard Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Ramjan Ali who is apprehending his arrest in connection with Amguri P.S. Case No. 40/2023 under Section 376 of the Indian Penal Code.

The gist of accusation in this case is that the victim/informant of this case lodged an FIR before the Officer-In-Charge of Amguri Police Station, on 01.09.2023, *inter-alia*, alleging that on 21.08.2023, when she went to Pachim Bhabanipur field to graze her cow, the petitioner dragged her to bamboo farm and forcefully rape her and thereafter, seeing a boy coming near the place of occurrence he threatened the victim to kill her if she tells the incident to anybody else and ran away from there.

It is stated in the FIR that delay in lodging the FIR is due to the fact that the informant approached the village heads to take a decision in this regard.

Learned counsel for the petitioner has submitted that the petitioner is innocent and is no way involved in the offence alleged in the FIR.

It is submitted that the contents of the FIR are false and there is no plausible explanation given in the FIR for the delay of 11 days in lodging the FIR.

Learned counsel for the petitioner has also submitted that the victim is a woman separated from her husband and she is insisting the petitioner to marry her and when the petitioner refused to do so, she lodged a false FIR against the present petitioner.

However, on the other hand, learned Additional Public Prosecutor has vehemently opposed the grant of bail to the present petitioner and has produced the case diary of Amguri P.S. Case No. 40/2023 which was called for in connection with this case.

Learned Additional Public Prosecutor has submitted that there are

sufficient incriminating materials against the present petitioner in the case diary. He has pointed out to the statements made by the victim girl and one other witness recorded under Section 164 of the Code of Criminal Procedure, 1973, wherein, they have specifically implicated the present petitioner.

I have considered the submissions made by the learned counsels for both sides and have perused the materials of the case diary.

Though the learned counsel for the petitioner has submitted that the petitioner is innocent, however, there are sufficient incriminating materials against the present petitioner at this stage.

Considering the nature of offence involved in this case, this Court is not inclined to give the benefit of an Order under Section 438 of the Code of Criminal Procedure, 1973 to the petitioner at this stage of investigation.

Hence, the prayer for anticipatory bail is rejected at this stage.

Send back the case diary.

JUDGE

Comparing Assistant