

GAHC010248562022



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

Case No. : AB/3612/2022

JEHERUL ISLAM
S/O JANGSER ALI
VILL-LOWTHARI (BHAIRAGHOL)
P.O. AND P.S. MUKALMUA
DIST. NALBARI, ASSAM,
PIN-781126

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A MOBARAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 01.02.2023

Heard Mr. A. Mobaraque, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State/respondent.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioner, namely, **Jeherul Islam**, in connection with **Mukalmua Police Station Case No. 540/2022**(corresponding to G.R. case No. 1475/2022) registered **under Sections 376/384/507/34 IPC r/w Section 67 (A) I.T. Act.**

The case diary is received and perused the same.

The brief facts of the case is that the informant got married about 5/6 years ago and before 5 months of her marriage, she had love affairs with the present petitioner and at that time petitioner took her to Bartala Dhaba and committed rape on her and made a video clip forcefully through mobile. On 22.10.2022 at about 11.30 a.m., the petitioner threatened the informant over her mobile phone by demanding of Rs.3,00,000/-, otherwise he would make viral the said video. The petitioner made the video clip viral on facebook and having seen the video clip, the husband of the informant assaulted her badly and driven her out from her matrimonial home and she is now staying in her paternal house with her girl child.

Mr. Mobaraque, learned counsel for the petitioner submits that the petitioner had love affairs with the informant about 7 years ago and after some day, the informant got married with other person and thereafter he has no relation with the informant till date. Although, the petitioner had love affairs with the informant but he neither committed rape on her nor made any obscene video clip of the informant. He further submitted that the petitioner never demanding money from the informant. It is also submitted that the informant got married about 6 years ago to another person and the petitioner also married a girl about 3 years ago and out of their wedlock, a child was born. The petitioner is no way connected with the offence as alleged in the FIR and he will

co-operate with the investigation if he may be protected under the provision of 438 Cr.P.C.

Mr. Das, learned Additional Public Prosecutor has vehemently opposed to the prayer of the accused/petitioner by stating that the petitioner is very much involved in the present case and the victim was driven out from her matrimonial home due to viral of earlier video clip taken by the petitioner and at present, she resides in her parental home along with her daughter.

After perusal of the case diary along with the statement of the victim recorded under Section 164 Cr.P.C., it appears that the present accused/petitioner is very much involved with the commission of offence as alleged in the FIR.

On consideration of the matter in its entirety this Court is of the view that this is not a fit case for grant of pre-arrest bail to the accused/petitioner, at this stage. Therefore, his prayer for bail is **rejected**.

The bail application stands disposed of accordingly.

Return the case diary.

JUDGE

Comparing Assistant