

GAHC010250182022



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

Case No. : Bail Appln./3367/2022

IBRAHIM ALI
S/O- LATE BANIZ ALI,
P.O- PATAKATA,
P.S-SOUTH SALMARA, DIST- SOUTH SALMARA MANKACHAR, ASSAM,
PIN-783127

VERSUS

THE STATE OF ASSAM
REP, BY PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

03.01.2023

Heard Mr. N. Uddin, learned counsel for the accused and Mr. B.B. Gogoi, learned Addl. P.P. for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure,

1973, is preferred by accused, namely, Ibrahim Ali, who has been languishing in jail hazot in connection with the South Salmara P.S. Case No. 368/2022, under Sections 120[B]/366/376/313/34 of the IPC read with section 4 of the POCSO Act and 3/4 of the D.V. Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by informant Smti X [name withheld] to the effect that she has developed affairs with accused No. 1, Shajahan Ali, about 2 years back and Shajahan Ali along with accused No. 2, Johirul Islam eloped her from her house with a promise to marry her and thereafter, they have taken her to Gauripur and kept her in a rented house and accused No. 1 established physical relationship with her against her will. As a result she become pregnant and thereafter, as per conspiracy of accused No. 3, Ibrahim Ali, she was taken to Gouripur Nursing Home for abortion of her pregnancy and compelled her to abort the same and since that day accused No. 1 has been subjecting her physical and mental cruelty. On 12.09.2022, at about 5 am accused No. 3 took her to a unknown place of Meghalaya and kept her in a house and told her that accused No. 1 will come and meet her. But, even after 25 days no one came to take her and somehow she left that place and on 08.09.2022 her maternal uncle took her to the house of accused No. 1 and accused No. 3 prevented her from entering into his house.

4. Mr. Uddin, learned counsel for the accused submits that the accused was arrested on 11.10.2022, and since then he is behind the bar for 83 days and that the allegation leveled again the accused is false and the main allegation is against his son, the accused No. 1 and the present accused is no way involved with the offence alleged in the FIR, and therefore, it is contended to allow this

petition.

5. On the other hand Mr. Gogoi, learned Addl. P.P. by producing the case diary submits that the victim girl in her statement under section 164 of the Cr.P.C. has clearly implicated the accused with the offence of conspiracy and abortion of her pregnancy, and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Gogoi, learned Addl. P.P.

7. From a careful perusal of the material collected so far in the case diary, especially the medical report of the victim collected from Gauripur Civil Hospital and issued by one Dr. S.B. Deka, Senior Gynecologist of Gauripur Hospital Private Limited and also the statement of the victim girl recorded under section 164 of the Cr.P.C., this court is of the view that no case for granting bail to the present accused is made out.

8. Accordingly the petition stands dismissed.

9. The case diary be returned.

JUDGE

Comparing Assistant