

GAHC010254552023



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

Case No. : AB/3792/2023

GAURAB KUMAR BEZBARUAH
S/O PHANI DHAR BEZBARUAH R/O VILL. PORAKUCHI P.S. KAMARKUCHI
DIST NALBARI ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 23-11-2023

Heard Mr. M. Alam, learned counsel for the petitioner. Also heard Ms. B. Sharma, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Gaurab Kumar Bezbaruah, who is apprehending his arrest in connection with Nalbari P.S. Case No. 375/2023

under Section 376/313/506 of the Indian Penal Code.

The gist of accusation against the present petitioner is that on 02.09.2023, the victim girl has lodged an FIR before the In-Charge of Kamarkuchi Police Out-Post, *inter-alia*, alleging that she was subjected to forceful physical relationship by the present petitioner on the pretext of marriage by the present petitioner.

It is also alleged in the FIR as a result of the physical relationship, the informant became pregnant and the petitioner took her to the hospital and compelled to abort her pregnancy.

Learned counsel for the petitioner has submitted that the petitioner is a major and there was a relationship between the petitioner and the victim girl as both held from the same village and their relationship was consensual in nature.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Nalbari P.S. Case No. 375/2023 which was called for in connection with this case and has opposed on the ground that the victim has implicated the present petitioner in her statement made under Section 164 of the Code of Criminal Procedure, 1973 and the medical report of the victim girl also shows that there was a termination of pregnancy.

I considered the submissions made by the learned counsel for both the parties as well as materials available before this Court, including the statement of the victim as well as the medical report that though there are incriminating materials against the present petitioner in the case diary, however, it appears that the petitioner and victim were having love affairs since 2021 and the FIR was lodged only in the month of September 2023.

Considering the fact that both the victim and the petitioner are major and were having love affairs since last two years and considering the nature of allegations levelled against the petitioner in the FIR, his custodial detention of

the present petitioner may not be necessary, if he co-operates with the Investigating Officer in fair completion of the investigation of Nalbari P.S. Case No. 375/2023.

In view of above, the petitioner, namely, Gaurab Kumar Bezbaruah, is hereby directed to appear before the Investigating Officer of Nalbari P.S. Case No. 375/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest in connection with Nalbari P.S. Case No. 375/2023, the above named petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

(i) the petitioner shall not directly or indirectly make any inducement threat or promise to the victim or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

(ii) the petitioner shall co-operate in the investigation.

With the above observation, this anticipatory bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant