

GAHC010256112022



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

Case No. : Bail Appln./3475/2022

PRADEEP KUMAR KHILLAR
S/O PRASANT KHILLAR
PRESENTLY RESIDING - AZARA, KALITAPARA
P.S. AZARA, PIN-781015,
DIST. KAMRUP (METRO),
PERMANENT RESIDENT OF VILL- SARASANKHA, P.S. SORO
DIST. BALASORE, ODISHA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D CHUTIA

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE ROBIN PHUKAN

04-01-2023

Heard Mr. D. Chutia, learned counsel for the accused. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State Respondnet.

This application under Section 439 of the Code of Criminal Procedure is

preferred by the accused – **Pradeep Kumar Khillar**, who has been languishing in jail hajot since 10.11.2022, in connection with **Azara P.S. Case No.173/2022, under Sections 294/506/307/ 376/384 I.P.C., read with Section 67 of IT Act.**

The said case has been registered on the basis of an FIR lodged by the informant Smti. 'X' (name withheld), on 9.11.2022, to the effect that she has developed love relationship with the accused through Facebook and, on 9.11.2022, the accused called her to Odishi Dhaba and there he tried to kill her by his service revolver and forcibly committed rape upon her and also had taken naked photographs of her in his mobile phone and demanded a sum of Rs.50,000/- from her, and uploaded the photograph viral in the social media.

Mr. Chutia, learned counsel for the accused submits that the accused was arrested on 10.11.2022, and since then he has been languishing in jail hazat for last 55 days and, that he has been working as a constable in BSF and his wife is the owner of the Odishi Dhaba where the alleged occurrence is said to have taken place and, on that day of occurrence, the wife of the accused was also present there and only an altercation took place between them and the accused is innocent and, therefore, it is contended to allow the petition.

On the other hand, Mr. Gogoi, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the victim as well as the accused are familiar to each other and the victim appears to be a consenting party to the act, as there was friendship between them and, therefore, Mr. Gogoi has not seriously opposed the petition filed by the accused.

Having heard the submission of learned advocates for both sides, 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 Additional Public Prosecutor.

It appears from the case diary that the investigating officer has also submitted one bail objection petition wherein it is stated that the investigation is still going on and that the accused has already threatened the informant to kill her after coming out of the jail.

Having regard to the nature of accusation and the punishment prescribed for the same and also having regard to the materials collected so far in the case diary, specially the statement of the victim woman recorded under Section 164 Cr.P.C., as well as the ground for objection in enlarging the accused on bail, filed by the investigating officer, this Court is of the view that this is not a fit case where the privilege of bail can be extended to the accused and, accordingly, the petition stands dismissed.

Case diary received be returned.

JUDGE

Comparing Assistant