

GAHC040017642024



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

Case No. : AB/147/2024

Mame Gumja
Son of Late Talu Gumja, resident of Daporijo, Pakam Colony, PO and PS Daporijo,
Upper Subansiri District, Arunachal Pradesh and presently residing at Naharlagun
(Lower Model Village) Papum Pare District, PO Naharlagun, Arunachal Pradesh.

VERSUS

The State of AP and Anr
through the PP of AP 2:Gioro Hina (Guardian/ father of the victim)
Age: 0
Occupation :
resident of Village Hina
DST Colony
PO and PS Daporijo
Upper Subansiri District
Arunachal Pradesh

Advocate for the Petitioner : Rajesh Sonar, Binny Nyaruce,R Taku

Advocate for the Respondent : P P of AP, Tokdak Tamin,Likha Kagung,Tem Pahi,Taba Topu

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 24-12-2024

Heard Mr. R. Sonar, learned counsel for the petitioner. Also heard
Ms T. Jini, learned Additional Public Prosecutor for the State and Mr. T.

Tamin, learned counsel for the respondent No.2/father of the victim.

2. This is an application under Section 482 of the BNSS 2023, praying for grant of privilege of pre-arrest bail to the applicant, namely, Mame Gumja in connection with Daporijo P.S. Case No. 84/2024 under Section 74/75(2)/79 BNS 2023 read with Section 8/12 of the POCSO Act.

3. The criminal proceeding has been set into motion on filing of a complain/FIR before the Officer-in-Charge police station Daporijo on 14.12.2024 by Ms. 'X' to the effect that on 17.09.2024, the accused, Shri Mame Gumja made a phone call to the victim and asked her to come to roam around at Fair(Mela) at Daporijo. The victim took 2 sisters along with her. The victim and her 2 sisters went with the accused in his car. However, the accused did not take victim to the Fair(mela) rather took them from Daporijo to the Subansiri Resort and started telling unpleasant words. Thereafter, they reached at Subansiri resort at Dugi village and the accused sat besides the victim and touch her whole private part. The accused had also offer sum of Rs.2000/- for non-disclosure of the incident to anyone and later on, the said amount was handed over to the mother of the victim. On receipt of the above complain, the police has registered the case being Daporijo P.S. Case No. 84/2024 under Section 74/75(2)/79 BNS 2023 read with Section 8/12 of the POCSO Act.

4. Apprehending arrest in connection with the aforesaid case, the applicant has filed this present application.

5. Mr. R. Sonar, learned counsel for the petitioner submits that the petitioner is about 52 years of age, presently serving as Block Education Officer at Daporijo DDSE Office. He submits that the victim is a close relative of the accused and they used to visit each other as he was currently posted at Daporijo. Sometime in the month of September, victim as usual requested him to take her out for roaming and to visit Mela at Daporijo. On such request, considering that victim is a daughter of his relative and previously had gone out for outing, he had picked her up from school at around 4 PM along with her sisters and took them out for roaming and dropped them back.

6. He submits that the FIR has been filed at the behest of some women group, which might have some grudge against the accused applicant. He submits that the allegation in the FIR is totally false and accused applicant being married and having two daughters and son, could not imagine to act as alleged to the victim who is a relative. Therefore, he submits that the accused applicant be extended the privilege of pre-arrest bail.

7. Ms T. Jini, learned Additional Public Prosecutor has produced the case diary along with up to date status.

8. The Chief Judicial Magistrate, Daporijo has recorded the statement of the victim under Section 183(5) of the BNSS, 2023. On the perusal of the statement of the victim, it clearly shows that the victim had narrated the incident in detail, which reflects, *prima facie*,

commission of the offence as alleged.

9. Mr. T. Tamin, learned counsel for the respondent No.2 submits that he has no objection if the accused applicant is granted pre-arrest bail as he does have knowledge about filing of the FIR.

10. It is stated at the bar that after registration of the FIR, the custody of the victim was given to CWC. Thereafter, her custody has been given to her aunt.

11. Having considered the case diary and up to date case status and statement under Section 183 BNSS, 2023 recorded by the learned Chief Judicial Magistrate and also considering the serious nature of the offence alleged above, this Court is not inclined to admit the accused applicant on pre-arrest bail although the father of the victim not having the custody of the victim, has submitted that he would not have any objection if the bail is granted. Accordingly, the prayer for privilege of pre-arrest bail is rejected.

12. The anticipatory bail application stands dismissed and disposed of.

JUDGE

Comparing Assistant