

GAHC010000792024



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

Case No. : AB/24/2024

MD HARUN RASHID
S/O AKIT ALI
R/O VILL- MARIMUSLIMGAON
P.S. MORIGAON,
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

12.01.2024

Heard Ms S K Nargis, learned counsel for the petitioner, Md Harun Rashid.

2. The petitioner has filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Morigaon PS Case No. 428/2022, under Sections 376/506 IPC, read with Section 67 of the Information Technology Act.

3. Heard Mr D P Goswami, learned Additional Public Prosecutor for the State of Assam.
4. It is submitted on behalf of the petitioner that FIR was lodged after two months of the incident, which occurred on 16.07.2022, whereas the complaint petition was filed on 28.09.2022, i.e., after more than two months.
5. It is submitted that a false case has been slammed against the petitioner as there is a monetary dispute between the petitioner and the victim's husband. The victim has alleged sexual assault, but it is apparent that the petitioner and the victim had a consensual relationship.
6. Per contra, the learned Additional Public Prosecutor has submitted that the statement of the victim under Section 164 CrPC incriminates the petitioner.
7. I have considered the submissions at the Bar with circumspection.
8. I have considered the submission that the FIR was lodged after a delay of two months.
9. I have also considered the submission that the reasons of delay were not mentioned in the FIR/complaint petition.
10. I have also considered the submission that the petitioner is willing to cooperate with the investigation.
11. It is submitted on behalf of the petitioner that the petitioner will abide by any bail

condition and will not go near the vicinity of the victim.

12. Custodial interrogation of the petitioner may not be required.

13. I have also perused the Case Diary.

14. Considering the submissions at the Bar with circumspection, I deem it proper to grant pre-arrest bail to the petitioner. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/-, with a suitable surety of the like amount to the satisfaction of the arresting authority, under the conditions that-

- i) the petitioner shall not go near the vicinity of the victim,
- ii) the petitioner shall refrain from such activities with which he is alleged.
- iii) the petitioner shall cooperate with the investigation as well as the trial,
- iv) the petitioner shall not exercise threats to witnesses and tamper with the evidence, and,
- v) the petitioner shall not leave the jurisdiction of the Court without prior permission, till completion of trial.

On breach of any of the bail conditions, the bail order shall stand cancelled.

15. Bail Application stands disposed of.

16. Send back the Case Diary.

JUDGE

Comparing Assistant