

GAHC010003842024



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

Case No. : AB/82/2024

SOMBARU ROY @ SOMBHARU ROY
S/O SHINTANANDA ROY
VILL- DARCHUKA, P.T. P.S. GAURIPUR,
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

22.01.2024

Heard Mr. M. Mondal, learned counsel for the petitioner. Also heard Mr. K.K. Parashar, learned Addl. P.P, Assam for the State respondent.

This is an application under Section 438 of the Code of Criminal

Procedure, 1973 for granting pre-arrest bail to the petitioner, namely Sombaru Roy @ Sombharu Roy in connection with Gauripur P.S. Case No. 464/2023 registered under Section 376 IPC.

The case of the prosecution in brief is that the complainant has filed an FIR on 24.11.2023 alleging that about two months ago, when she had visited the house of the accused person, the accused person by taking advantage of the fact that no one was present at home, committed sexual intercourse forcefully against her will by putting cloth in her mouth. It is further alleged that the accused person also took mobile recording of the event and threatened her by showing dangerous weapon not to disclose about the incident. It is further alleged that the accused person had threatened her to kill if she discloses the incident to someone else and thereafter, the accused person has started blackmailing her by showing the video recording to other person. Accordingly, a case was registered.

Mr. M. Mondal, learned counsel for the petitioner submits that pursuant to the registration of the aforesaid FIR, the Police Personnel of Gauripur Police Station has visited the residence of the petitioner to arrest him and accordingly, apprehending that he will be arrested, the present anticipatory bail application has been filed.

The learned counsel for the petitioner further submits that the accused person has a grocery shop and the informant has borrowed some goods amounting of Rs. 4,000/- but has not returned the same till date, for which there was a conflict between them and because of which, the informant has filed the FIR by falsely implicating the accused person.

Mr. K.K. Parashar, learned Addl. P.P on the other hand strongly opposes the prayer of the pre-arrest bail. He submits on the basis of the Case Diary received that the complainant statement under Section 164 has been taken and she fully corroborates the allegations made in the FIR. Further, the investigation is at the initial stage and if the prayer for pre-arrest bail is granted, the on-going investigation shall be hampered.

I have heard the submissions made at the bar and have perused the materials available on record including the Case Diary placed before this Court.

It appears from the averments made in the FIR as well as the statement of the complainant recorded under Section 164 of the CPC which is available in the Case Diary that the accused person, while his wife was away, has committed sexual intercourse with the complainant and has also recorded the same in his mobile phone. It further appears that the accused person is now blackmailing the complainant. The allegations appears to be grave and the investigation is at a very early stage and keeping the same in mind, this Court is of the opinion that if the accused person is released on pre-arrest bail as prayed for, the on-going investigation may be hampered.

Considering the same, the application stands rejected.

JUDGE

Comparing Assistant