

GAHC010005942024



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

Case No. : AB/109/2024

JINNAT SK. @ JINNAT
S/O- NASU @ NACHU SHEIKH, VILLAGE- GERAMARI PART-I, P.S.
GAURIPUR, DIST.- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY P.P., ASSAM

2:NURUL HOQUE
S/O- REJJAK ALI
VILL.- SHYAM SHORONER KUTI PART-I
P.S. GAURIPUR
DISTRICT- DHUBRI
ASSAM
M.NO.- 985481691

Advocate for the Petitioner : MR Z RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15.02.2024

Heard Mr. A.M. Khan, learned counsel for the applicant. Also heard Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent No. 1 and Mr.

B. Chowdhury, learned counsel for the respondent No. 2/informant.

2. Apprehending arrest in connection with Gauripur P.S. Case No. 424/2023, under Section 365 of the IPC, added Section 376 of the IPC, read with Section 4 of the POCSO Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Jinnat Sk. @ Jinat, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Nurul Hoque on 22.10.2023. The essence of allegation made in the FIR dated 22.10.2023 is that on that day, at about 8 a.m. in the morning, he found his younger sister missing from her room and later on, he came to know that the applicant Jinnat Sk. @ Jinnat kidnapped her and kept her concealed in an unknown place.

4. Mr. Khan, learned counsel for the applicant submits that the applicant is innocent and no way involved in the offence alleged in the FIR and that the victim girl came to the house of the applicant and thereafter, the parents of the applicant sent her back and nothing has happened as alleged in the FIR, and that the applicant is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Ms. A. Begum, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the victim girl in her statement recorded under Sections 161 and 164 of the Cr.P.C., has implicated the applicant with the offence alleged in the FIR and that the offence is serious in nature and therefore, Ms. Begum has contended to dismiss the application.

6. On the other hand, Mr. B. Chowdhury, learned counsel for the respondent No. 2/informant submits that the victim is a minor girl and she was kidnapped and raped by the applicant and that the offence is serious in nature, and therefore, Mr. Chowdhury has contended to dismiss the application.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Ms. A. Begum, learned Addl. Public Prosecutor.
8. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant. Further, it appears that the age of the victim girl was 13 years at the relevant point of time
9. Having perused the statement of the victim girl recorded under Sections 161 and 164 of the Cr.P.C. and the materials collected in the case diary, this Court is of the view that this is not a fit case where the privilege of anticipatory bail can be granted to the applicant and accordingly, this application stands dismissed.
10. Case diary be returned.

JUDGE

Comparing Assistant