

GAHC010006502024



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

Case No. : AB/141/2024

ABDUL BATEN @ BATEN ALI
SON OF HABIBAR RAHMAN, R/O- VILLAGE- BHADIAPARA, P.S.
ABHAYAPURI, DISTRICT- BONGAIGAON, ASSAM, PIN- 783384

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED HEREIN BY ITS PUBLIC PROSECUTOR, ASSAM

2:SMT. BICHITRA RAY
WIFE OF KUSHAL CHOUDHURY
R/O- VILL- DHARMAPUR WARD NO. 1
P.S. ABHAYAPURI
DISTRICT- BONGAIGAON
ASSAM
PIN- 78338

Advocate for the Petitioner : MR G CHAMUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 07-03-2024

Heard Mr. G. Chamuah, learned counsel for the appellant. Also heard Mr. D. Gogoi, learned counsel for the respondent/informant/victim and Mr. D. Das,

learned Addl. P.P. Assam, appearing for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for granting Anticipatory Bail to the petitioner, i.e. Abdul Baten @ Baten Ali, who is apprehending arrest in connection with Abhyapuri P.S. Case No. 563/2023 corresponding to NGR No. 949/2023 registered under section 448/376 of IPC.

The facts of the case is that on 22.12.2023, the aforementioned petitioner, taking advantage of absence of the family members of the victim entered into the house of the victim and committed sexual intercourse with her against her will.

Mr. B. Chamuah, learned counsel for the petitioner submits that the informant/victim has filed an affidavit before this Hon'ble Court, whereby she has stated that due to the influence of her relatives, she has lodged the FIR against the petitioner and the entire dispute is settled between them amicably.

Mr. D. Gogoi, learned counsel for the respondent/informant/victim confirms the same.

Mr. D. Das, learned Addl. P.P. on the other hand strongly opposes the prayer of pre-arrest bail and submits that the statement of the informant/victim recorded under section 164 Cr.P.C is fully corroborated the version of the allegations made in the FIR as well as in the statement recorded under section 161 Cr.PC.

I have heard the submissions at bar and also perused the materials on record.

Considering the affidavit-in-opposition filed by the informant/victim before this Court, stating that she has lodged the FIR under the influence of her

relatives, this Court is of the considered view that the custodial interrogation of the petitioner may not be necessary.

Accordingly, it is provided that in the event of arrest, the petitioner named above, shall be released on pre-arrest bail in connection with above noted case on furnishing a bail bond of Rs. 30,000/- (Rupees thirty thousand) only, with one suitable surety of like amount to the satisfaction of the arresting authority subject to the following conditions:

1. That the petitioner shall co-operate with the investigation and shall appear before the Investigating Officer within 10 days failing which and on the 11th day the pre-arrest bail order shall have no force.
2. The petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from deposing against the petitioner in the pending trail.
3. That the petitioner shall refrain from such activities in future with which he is alleged.

Return the case diary.

In terms of above, this Anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant