

GAHC010009172024



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

Case No. : AB/159/2024

JAANAK RAY @ JANAK CHOUDHURY
S/O SRI HITESSWAR CHOUDHURY
R/O VILL- BARPARA PAHARTOLI, P.O. BONGAIGAON, P.S. AND DIST.
BONGAIGAON, ASSAM, PIN -783380

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:RAMALA SUTRADHAR
W/O LATE PABITRA SUTRADHAR

R/O VILL- BARPARA PAHARTOLI
P.S. AND DIST. BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 19-02-2024

Heard Mr. S. C. Biswas, learned counsel for the applicant and also heard Mr. B. Sarma, learned Addl. P.P. for the State respondent.

This application, under Section 438 Cr.P.C. is preferred by applicant, namely, Janak Ray @ Janak Choudhury who has been apprehending arrest in connection with Bongaigaon P.S. Case No. 560/2023, under Sections 376(2) (i) of IPC R/W Section 4 of the POCSO Act, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Ramala Sutradhar on 27.12.2023.

The essence of allegation made in the FIR dated 27.12.2023 is that about one and half months back, her daughter Smt. 'x' (name withheld) aged about 14 years, went to the house of Janak Ray, who was living behind her house, at about 10 A.M and there, he has committed rape upon her and now she has been carrying pregnancy of one and half months old.

It is to be noted here that notice was issued to the informant and the same was served, but, she remains unrepresented today.

Mr. Biswas, learned Counsel for the applicant submits that there was relationship between the accused and the applicant and there is delay in lodging the FIR and that the accused is innocent and no way involved with the offence alleged in the FIR and therefore, Mr. Biswas contended to allow the petition.

Mr. B. Sarma, learned Addl. P.P. has produced the case diary before this Court and referring to the statement of the victim girl recorded u/s 164 Cr.P.C., submits that the victim girl has implicated the applicant with the offence alleged in the FIR and therefore, Mr. Sarma has opposed the petition.

Having heard the submission of learned Advocate for both sides, I have carefully gone through the petition and documents available on record and also perused the case diary with the assistance of Mr. Sarma, learned Addl. P.P.

Case diary indicates that the I.O. has collected sufficient incriminating materials

against the applicant.

Having perused the statement of the victim girl recorded u/s 164 and 161 Cr.P.C. statement, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant.

Accordingly, the petition stands dismissed. Case diary be returned.

JUDGE

Comparing Assistant