

GAHC010010332024



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

Case No. : AB/165/2024

SHAJAHAN ALI
S/O BILLAL HUSSAIN
R/O VILL- ALOMGANJ PT.-9, P.S. GAURIUR, DIST. DHUBRI, ASSAM

VERSUS

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

2:ANNAS ALI
S/O PAKKU SK.
R/O VILL- ALOMGANJ PT. 9
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 09-02-2024

Heard Mr. M. Khan, learned counsel for the petitioner Shajahan Ali. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent No. 1 and Mr. K.R. Patgiri, learned counsel for the respondent No. 2.

2. The petitioner has filed this application under Section 438 of the Code of Criminal Procedure, 1973 with prayer for pre-arrest bail as he is apprehending arrest in connection with Gauripur Police Station Case No. 369/2023 under Sections 376 IPC read with Section 4 of the POCSO Act.
3. The allegation against the petitioner is that he committed sexual assault on the victim who was only 17 (Seventeen) years old at the time of the incident.
4. I have considered the submissions at the bar.
5. It is submitted by the learned counsel for the petitioner and the learned counsel for the respondent No. 2 that both the petitioner and the victim have a love relationship and the petitioner will marry the victim when the victim attains the majority. It is an admitted fact that the victim willingly went away with the petitioner.
6. The learned Additional Public Prosecutor has raised objection stating that there are incriminating materials in the Case Diary against the petitioner.
7. I have also scrutinized the Case Diary. Investigation has progressed to a considerable extent. It appears that custodial interrogation may not be required. The petitioner and the victim are planning to get married. The petitioner is a local resident and he has pledged to cooperate with the investigation as well as with the trial and to abide by any bail conditions if imposed upon him.
8. Considering all aspects, petition is allowed.
9. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

- i) The petitioner shall appear before the Investigating Officer within ten days and cooperate with the investigation.
- ii) The petitioner shall not exercise threats to the witnesses.
- 10. On breach of any bail conditions, bail order shall stand cancelled.
- 11. Send back the Case Diary.

In the above terms this Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant