

GAHC010015702024



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

Case No. : AB/202/2024

LAKHESWAR BORAH
S/O SHRI BUBUL BORAH
R/O DIJUVELLY COLONY
P.O. ANJUKPANI
P.S. SAMAGURI
NAGAON, ASSAM, PIN-782139

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A J SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 07-03-2024

Heard Mr. P.R. Sarma, learned counsel appearing on behalf of Mr. P.D. Nair, learned counsel for the petitioner. Also heard Mr. K.K. Parasar, 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. Lakheswar Borah, who is apprehending arrest in connection with Samaguri P.S. Case No. 331/2023 corresponding to G.R. Case No. 597/2023, registered under section 448/376/511 of IPC.

Case diary as called for is placed before this Court.

It may be mentioned that vide order dated 30.01.2024, this Court has granted the privilege of interim pre-arrest bail to the petitioner subject to conditions.

Mr. K.K. Parasar, learned Addl. P.P. submits that the case diary shows that the petitioner is appearing before the Investigating Officer and his statement has been recorded under section 161 Cr.P.C. as per the interim pre-arrest bail granted earlier.

Mr. K.K. Parasar, learned Adl. P.P. further submits that the statement of the victim is recorded under section 164 Cr.P.C. which shows that the petitioner tried to commit rape on her but before he could, the husband of the victim came and accordingly, the petitioner fled away from the place of occurrence.

Thus, the ingredients' of section 376 IPC on the face of the FIR is lacking.

Considering the facts that there is no adverse report against the petitioner from the I.O. and the petitioner is also co-operating with the investigation. Hence, this Court finds that custodial interrogation of the petitioner may not be required in the interest of ongoing investigation in the case.

Accordingly, the interim pre-arrest bail granted to the above named petitioner, vide order dated 31.01.2024 is hereby made absolute, subject to the following conditions:

1. That the petitioner shall co-operate with the investigation as and when required.
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.

Return the case dairy.

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

JUDGE

Comparing Assistant