

GAHC010017382024



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

Case No. : AB/218/2024

HUSSAIN AHMED
S/O LATE IDRIS ALI @ MAKHAN MIA, VILLAGE- BALESWAR, P.O.
KALIGANJ BAZAR, P.S. AND DISTRICT- KARIMGANJ, ASSAM, PIN- 788720

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H I CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 13-02-2024

Heard Mr. P.K. Roychoudhury, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Addl. P.P., Assam for the State respondent.

This is an application under Section 438 of the Cr.P.C. for granting pre-arrest bail to the petitioner, namely, Hussain Ahmed in Connection with Karimganj P.S. Case No. 911/2023 registered under Sections 341/376/417 of the IPC.

It is submitted by Mr. Roychoudhury, the learned counsel for the petitioner that the petitioner is not named in the FIR.

The brief facts of the case is that on 17.11.2023, the complainant filed a complaint before the learned CJM, Karimganj against the petitioner inter-alia stating that the sister of the complainant who is partially disabled in her eyes and taking advantage the petitioner built love affairs with her and by giving promise to marry he used to visit her house and took some obscene photograph with her. Thereafter, the petitioner by threatening to viral those photograph started committing rape with her. While the sister of the complainant objected to the same the petitioner got viral those photographs in the Social Media in the name of RSDK facebook I.D. Coming to know about the fact the brother of the victim lodged an FIR against him.

It is submitted by the learned Counsel for the petitioner that he is in no way involved with the alleged offence. It is one Rahul Amin who sustained the other boys to marry the sister of the informant and some photographs of whom got viral by opening fake face-book account and falsely implicated the present petitioner. However, he is ready and willing to cooperate with the investigation of the case if he is granted privilege of pre-arrest bail.

In this context, Mr. Borthakur, the learned Addl. P.P. has submitted that there is no direct allegation against the present petitioner. From the statement of the 164 Cr.P.C, of the victim it is seen that he brought the allegation that there is physical relationship with the present accused petitioner.

Considering the submissions of the learned counsel for the parties and also considering the statement made by the victim under Section 164 Cr.P.C. and other materials available, I find that custodial interrogation is not necessary in this case and accordingly, I find it fit to extend the privilege of pre-arrest bail to the accused petitioner.

Accordingly, it is provided that in the event of arrest, the petitioner, named above, shall be enlarged on bail of Rs. 20,000/- (Rupees Twenty thousand) with one surety of the like amount to the satisfaction of the arresting authority subject to the following conditions :

1. The petitioner shall appear before the I.O. within 7 days from the date of the order.
2. The petitioner shall make himself available for interrogation by the investigating officer as and when required.
3. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any other police officer, and
4. The petitioner shall not hamper the investigation or temper with the evidence of the case.

With the above observations and direction, the bail application stands disposed of.

JUDGE

Comparing Assistant