

GAHC010021452024



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

Case No. : AB/269/2024

AZAHAR ALI @ HUKKU
S/O- LATE ASHAN ALI, VILL- KABAITARY, P.O. AND P.S. JOGIGHOPA, DIST.-
BONGAIGAON, ASSAM, PIN- 783382

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY P.P., ASSAM

2:SALEHA KHATUN (INFORMANT)
W/O- MOYNUL HOQUE
VILL- KABAITARY
PT-IV
P.O. AND P.S. JOGIGHOPA
DIST.- BONGAIGAON
ASSAM
PIN- 78338

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15.03.2024

Heard Mr. M.U. Mahmud, learned counsel for the applicant. Also heard Mr. B.

Sarma, learned Addl. Public Prosecutor for the State respondent No. 1.

2. Apprehending arrest in connection with Jogighopa P.S. Case No. 01/2024, under Sections 448/506 of the IPC, read with Section 4 of the POCSO Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Azahar Ali @ Hukku for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Saleha Khatun on 01.01.2024. The essence of allegation made in the FIR dated 01.01.2024, is that on 28.12.2023, at about 2 p.m., accused Azahar Ali @ Hukku subjected the daughter of the informant, namely, Smt. X (name withheld), aged about 8 years, to sexual harassment and when her eldest daughter raised alarm, then the accused fled away and she found her sister in naked condition.

4. Mr. Mahmud, learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case in connection with a plot of land, and that he is a person of 71 years old and suffering from various ailments, and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the application.

5. On the other hand, Mr. B. Sarma, learned Addl. Public Prosecutor submits that he has not received the case diary, but as per his instruction, the I.O. has completed investigation and submitted charge-sheet, being charge-sheet No. 2/2024, dated 31.01.2024, under Sections 448/506 of the IPC, read with Section 4 of the POCSO Act. Mr. Sarma further submits that the offence is serious in nature and therefore, Mr. Sarma has contended to dismiss the application.

6. Having heard the submission of learned Advocates of both sides and also considering the fact that charge-sheet has already been submitted before the learned Court below, this Court is inclined to dispose of this application by

directing the applicant to appear before the learned Court below on or before 03.04.2024, and to apply for regular bail and in the event of filing such application, the learned Court below shall consider the same in accordance with law.

7. It is further provided that in the event of arrest of the applicant in connection with Jogighopa P.S. Case No. 01/2024, under Sections 448/506 of the IPC, read with Section 4 of the POCSO Act, he shall be released on interim pre-arrest bail till his appearance before the learned Court below on or before 03.04.2024, on his executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) The applicant shall appear before the learned Special Judge (POCSO), Abhayapuri, on or before 03.04.2024;
- (ii) The applicant shall not leave the jurisdiction of the learned Special Judge (POCSO), Abhayapuri without prior permission.

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

JUDGE

Comparing Assistant