

GAHC010032242024



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

Case No. : AB/404/2024

AMINUL ISLAM @ AMINUL SK.
S/O SOKIN UDDIN
VILL- CHAR KASHARIPARA
P.O. AND P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783128

VERSUS

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

2:WAZEDA KHATUN
W/O ABDL ZOBBAR SK.
VILL- CHARKASHARIPARA

P.O. AND P.S. SUKCHAR

DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78334

Advocate for the Petitioner : MR R ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 01.04.2024.

Heard Mr. R. Islam, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Addl. P.P., Assam for the respondent State.

This application under Section 438 of the Code of Criminal Procedure, 1973, has been filed by the petitioner, namely, Aminul Islam @ Aminul Sk, who is apprehending arrest in connection with Sukchar P.S. Case No.260/2023, under Sections 342/328/377/506 of the Indian Penal Code read with Section 4 of the POCSO Act, for granting pre-arrest bail.

The gist of accusation in this case is that the informant, who is the mother of the victim boy had lodged an FIR on 08.11.2023 before the Officer-in-Charge of the Sukchar Police Station, inter alia, alleging that on 30.09.2023, at about 4.30 P.M., the accused petitioner by inducing her minor son with intent to give money, took him to his house and then by consuming addictive tablets has done unnatural sex with the minor son of the informant.

Mr. R. Islam, learned counsel for the petitioner submits that the allegations leveled against the present petitioner in the FIR are not true. It is further submitted by the learned counsel for the petitioner that the FIR was lodged after 40 days of the alleged incident and no valid explanation has given for the delay.

The learned counsel for the petitioner further submits that no such incident was happened on that day and the instant FIR has been lodged only to take revenge against the accused petitioner because of the fact that the accused petitioner caught the minor son of the informant for stealing of money and subsequently, in the village meeting "village bichar" the informant was

bound to return back the said amount and as a result of the which, the present FIR has been falsely filed as a counter blast against the accused petitioner.

On the other hand, Mr. K.K. Das, learned Addl. P.P. has opposed the prayer of anticipatory bail of the accused petitioner and submitted that one witness, whose statement is recorded under section 161 of the Cr.P.C has stated that he has made video recording of the alleged offence. However, later on, the video recording and the mobile phone was sent for forensic examination.

I have considered the submissions made by the learned counsel for both the sides and perused the materials available on record including the case diary of the aforementioned case.

Though in this case, there is a delay of 40 days in lodging the FIR. However, considering the nature of allegations made against the present petitioner as well as the considering the materials available in the case diary including the statement of the victim recorded under section 164 Cr.P.C. as well as statement of the witness recorded under section 161 Cr.P.C., this Court is not inclined to grant the privilege of anticipatory bail to the accused petitioner at this stage.

Accordingly, prayer for anticipatory bail stands rejected.

Sent back the case diary.

JUDGE

Comparing Assistant