

GAHC010033462024



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

Case No. : AB/403/2024

PRAFULLA CHANDRA DAS
S/O LATE JOGESHWAR DAS
R/O VILL- NOWAMATI
P.O. AND P.S. CHAYAGAON
KAMRUP, ASSAM
PH. NO. 9954721477

VERSUS

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

2:SURYA KANTA RABHA
S/O LATE JARMON RABHA
VILL- JARMON RABHA
VILL- MILAGHAT
BOKO
KAMRUP (M)
ASSAM
PH. NO. 739947039

Advocate for the Petitioner : MR. N J GOGOI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 28.02.2024

Heard Mr. N.J. Gogoi, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Chaygaon P.S. Case No. 40/2024, under Section 354D of the IPC, read with Section 12 of the POCSO Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Prafulla Chandra Das, 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 Surya Kanta Rabha on 30.01.2024. The essence of allegation made in the FIR dated 30.01.2024, is that one Prafulla Chandra Das, who is the Hindi Teacher of Bamunigaon Higher Secondary School, passed indecent comments aiming at the daughter of the informant, namely, Smt. X (name withheld), aged 14 years, who is a student of the said school, and the said comments were recorded and made viral in the social media.

4. Mr. Gogoi, learned counsel for the applicant submits that the applicant is the teacher of Bamunigaon Higher Secondary School and the victim is his student, and except teacher and student relationship, there was no other relationship between them, and that he is innocent and ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Mr. B. Sarma, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR, and

therefore, Mr. Sarma has opposed the application.

6. Having heard the submission of learned Advocates of both sides, I have gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. B. Sarma, learned Addl. Public Prosecutor.

7. It is to be noted here that since the case has been registered under Section 354D of the IPC, read with Section 12 of the POCSO Act, notice was issued to the informant who has been impleaded as respondent No. 2, and the same was duly served upon him, but, he chooses not to appear before the Court.

8. The case diary indicates that the I.O. has collected some materials in support of the allegation made in the FIR, however, it appears from the case diary that the I.O. has examined some witnesses and the material part of the investigation appears to be almost over. In that view of the matter, custodial interrogation of the applicant seems not to be warranted here in this case and therefore, this Court is inclined to allow the application.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with Chaygaon P.S. Case No. 40/2024, under Section 354D of the IPC, read with Section 12 of the POCSO Act, he shall be released on pre-arrest bail on 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 make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant 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 to any police officer; and

(iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup, Amingaon without prior permission.

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

11. Case diary be returned.

JUDGE

Comparing Assistant