

GAHC010035112024



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

Case No. : AB/430/2024

SAHADUL HUSSAIN AND ANR.
S/O LATE FAJAL ALI
R/O ALL INDIA RADIO,
DIBRUGARH WEST, P.S. AND DIST. DIBRUGARH, ASSAM-786001.

2: NAJBEN ISLAM @ BEGUM
D/O SAHADUL HUSSAIN
R/O CHAWULKHOWA GHAR BANDI CHUK
P.S. AND DIST. DIBRUGARH
ASSA

VERSUS

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

2:MD. NASIM UDDIN AHMED
S/O LATE KAZIMUDDIN AHMED
R/O CHAULKHOWA GHAR BANDI CHUK
P.S. AND DIST. DIBRUGARH
ASSAM-78600

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

20.04.2024

Heard Mr. P. J. Saikia, learned Sr. counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State No.1 and Mr. R. A. Mazumder, learned counsel appearing for the respondent No.2.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioners, namely, **Sahadul Hussain and Najben Islam @ Begum**, in connection with **Dibrugarh P.S. Case No. 12/2024 (corresponding to G.R. Case No. 21/2024)**, registered under **Section 354-A/506/34 IPC, R/W Section 10 of POCSO Act, read with Section 14 of Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.**

It is submitted by the learned counsel for the petitioner that the petitioner No.1 is a grade-IV employee of All India Radio, Dibrugarh and the petitioner No.2 is the daughter of petitioner No.1. According to the learned counsel for the petitioners, the petitioners are no way connected with the alleged offence. Whatever allegation is made in the FIR is totally false and fabricated. It is further submitted that there was dispute between the parties as a result of which this FIR has been lodged alleging such offence against the petitioners. Considering the background of the case, benefit of pre-arrest bail may be extended.

On the other hand, Mr. R. J. Baruah, learned Additional Public Prosecutor has produced the case diary and submits that there is implicating material against the petitioner No.1 and vehemently objected the bail prayer of the petitioner No.1. However, he has made no objection for release of the petitioner No.2 on bail.

I have considered the submissions made by the learned counsel for the parties. On perusal of the case diary it appears that the victim in her statement recorded under Section 164 has implicated the petitioner No.1 with the alleged offence that he sexually abused the victim girl.

In view of the above and considering the submission of the learned counsel for both the parties as well as the materials available thereon, this Court finds that custodial interrogation of the petitioner No.2 is not required for the purpose of investigation of the case. Therefore, petitioner No.2 may be granted the privilege of pre-arrest bail.

Bail prayer of petitioner No.1 stands rejected at this stage.

Accordingly, it is provided that in the event of arrest, the petitioner No.2, namely, Najben Islam @ Begum, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 20,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioner No.2:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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.

The anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant