

GAHC010035822024



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

Case No. : AB/418/2024

LUKU KARMAKAR
S/O LATE NEPAL KARMAKAR
AMGAON, PRAGJYOTISHPUR,
GUWAHATI CENTRAL, PO. AND P.S. PRAGJYOTISHPUR,
DIST. KAMRUP (METRO), ASSAM
PIN-781150

VERSUS

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

2:SRI KARTIK BARMAN
S/O LATE SRINATH BARMAN

VILL- NIZ GOBARDHAN

P.S. PRAGJYOTISHPUR

DIST. KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. S DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 11.03.2024

Heard Mr. S. Das, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State.

2. This is the third bail application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioner, namely, **Luku Karmakar**, who is apprehending arrest in connection with **Pragjyotishpur P.S. Case No. 27/2024**, registered under Section **120B/420 IPC r/w Section 6 of POCSO Act**.

3. It is submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case. It is also submitted that the parents of the petitioner and the victim wanted the petitioner to get married the victim girl but as the victim was minor, he refused to get her married. As a result of which, the present case has been instituted against the petitioner. It is also submitted that the victim refused to do the medial examination for which the offence under Section 6 of POCSO Act cannot be proved during trial. Considering the background of the case and the nature of the offence, benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor for the State has produced the case diary along with the statement of the victim recorded under Section 164 Cr.P.C. He has further submitted that the petitioner took the victim who was minor and kept in his house and lived together as husband and wife with assurance to marry her. Under such scenario, pre-arrest

bail may not be considered at this stage.

5. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary along with other relevant documents. It reveals from the statement of the victim recorded under Section 164 Cr.P.C. that the petitioner had love affairs with the victim. In the year 2023, the victim eloped with the petitioner and kept in his house and lived together as husband and wife for four months. They had also sexual relationship. Subsequently, the victim came to know that the petitioner got married to another girl. It also appears that the petitioner forcefully committed sexual intercourse with the victim by promising to marry her. Though the victim had been eloped with the petitioner, but she was minor at the relevant time.

6. In view of the above, this Court is of the view that this is not a fit case to grant the privilege of pre-arrest bail to the petitioner. Therefore, the benefit of pre-arrest bail may not be considered to the petitioner and prayer is **rejected** accordingly.

7. The pre-arrest bail application stands disposed of.

8. Return the case diary.

JUDGE

Comparing Assistant