

GAHC010039532024



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

Case No. : AB/512/2024

SHAKIL REZBI MONDAL
S/O ASHRAFUL MONDAL,
R/ VILL- KATHALBARI, P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

21.03.2024

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam for the State respondents.

This is an application under Section 438 Cr.P.C. praying for granting pre-arrest bail to the petitioner, namely, **Shakil Rezbi Mondal**, who has been apprehending arrest in connection with **South Salmara Police Station Case No.367/2023**

registered under Sections 419/493/376(1) IPC (G.R. Case No.1114/2023).

The case of the prosecution is that on 28.12.2023, an FIR was lodged alleging *inter alia* that the petitioner on the pretext of marriage established physical relationship with the informant. It is further alleged that after committing rape upon the informant, the petitioner stopped all types of communication with the informant.

Mr. Ahmed, learned counsel for the petitioner submits that the ingredients of Section 376 IPC is not attracted with as there is no material of rape alleged in the FIR. He further submits that the petitioner is completely innocent and he has been falsely implicated out of grudge.

On the other hand, Mr. D. Das, learned Additional Public Prosecutor, Assam strongly opposes the prayer for bail.

I have considered the submissions made at the Bar and perused the materials available on the record.

It appears from the statements of the victim recorded under Section 164 Cr.P.C. that she and the petitioner were in love relationship and the families of both agreed to their marriage. However, later on, the petitioner refused to marry her after they had developed physical relationship. The medical report of the victim also indicates that there was no sign of recent sexual intercourse and there was no injury mark on the private parts of the victim.

Considering the facts and circumstances of the case, it is provided that the petitioner named above, in the event of arrest, shall be released on bail in connection with the aforementioned police station case on furnishing a bail bond of **Rs.15,000/- (Rupees Fifteen Thousand) only** with one surety of the like amount to the satisfaction of the arresting authority subject to the following conditions:-

i) that the petitioner shall appear before the Investigating Officer within 10 days, failing which, on and from the 11th day, the pre-arrest bail order shall have no

force; and

ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court or to any Police Officer; and

iii) that the petitioner shall refrain from such activities with which he has been alleged.

With the aforesaid observations and directions, this anticipatory bail application is disposed of.

Send back the case diary.

JUDGE

Comparing Assistant