

GAHC010043292024



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

Case No. : Bail Appln./578/2024

RAKESH MALAKAR @SANJIB MALAKAR
S/O SRI GANESH MALAKAR
R/O VILL- HAJO, JAGAITOLA
P.O. AND P.S. HAJO
DIST. KAMRUP, ASSAM-781102

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

11.03.2024

Heard Mr. U.K. Barman, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This is an application under Section 439 of the Code of Criminal

Procedure, 1973 for release on regular bail of the accused petitioner, i.e. Rakesh Malakar@Sanjib Malakar, who has been arrested on 21.02.2024, in connection with Dispur Case No. 136/2024, registered under Section 420/376/385/294/323/506/34 of the IPC.

The case of the prosecution is that the informant by filing an FIR, *inter-alia* alleged that she was introduced to the accused through facebook and the accused with the promise to marry her continued having sexual relationship with her.

Mr. U.K. Barman, learned counsel for the petitioner submits that the accused persons is totally innocent and has not committed any such offence as alleged.

Mr. P. Borthakur, learned Additional Public Prosecutor, Assam submits that there are no incriminating materials collected against the petitioner during investigation by the Investigating Officer.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears from the statement of the victim/informant recorded under Section 164 Cr.P.C. that the informant and the petitioner were in a love relationship and the petitioner had refused to marry her. It further appears that the informant has stated in her 164 statement that there was consensual sexual relationship between the informant and the accused petitioner.

Considering the entire aspect of the matter, this court is of the considered view that further detention of the petitioner is not justified.

Accordingly, it is provided that the accused petitioner named above, shall be released on bail in connection with the aforestated case with a bail bond of Rs. 10,000/- with a suitable surety of like amount to the satisfaction of the

learned Chief Judicial Magistrate, Kamrup (M), Guwahati, subject to the conditions that:-

- (i) the petitioner shall co-operate in the investigation; and
- (ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from deposing against the petitioners in the pending trial against them.

Return the case diary.

With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant