

GAHC010047082024



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

Case No. : Bail Appln./651/2024

PABAN CHOUDHURY
S/O- NARAYAN CHOUDHURY, R/O- BHAKARIVITA CHOUDHURYPARA, P.S.
BONGAIGAON, DIST.- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

06.03.2024

Heard Mr. S.M. Abdullah.P, 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. Paban

Choudhury, who was arrested on 17.02.2024, in connection with Abhayapuri Case No. 41/2024, under Section 376 of the IPC.

The case of the prosecutrix is that by lodging an FIR on 01.02.2024, the informant alleges that she had relationship with the accused since last 1 year and in the month of September, he made physical relation with her several times by luring her and assuring her that he will marry her, but subsequently after she became pregnant the accused had refused to marry her. Accordingly, a case under Section 376 has been registered against the petitioner.

Mr. S.M. Abdullah.P, learned counsel for the petitioner submits that a bare perusal of the FIR indicates that no case under Section 376 of the IPC is made out.

Mr. P. Borthakur, learned Additional Public Prosecutor, on the other hand, strongly opposes the prayer for regular bail. He submits that the accused has refused to marry the informant after she had become pregnant.

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

It appears from the FIR dated 01.02.2024 that the informant has not alleged that the accused had physical relation with her against her will.

On the contrary, she admits in the FIR that he has made physical relation with her several times by assuring her that he will marry her.

As such, the ingredients of Section 376 on the face of the FIR, are absent.

Accordingly, this court is inclined to grant bail to the petitioner.

For the aforesaid reasons, it is provided that the accused petitioner named above, shall be released on bail in connection with the above noted case with a bail bond of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate (M), North Salmara,

Abhayapuri, subject to the conditions that:-

- (i) the accused petitioner shall co-operate in the investigation and shall appear before the Investigating Officer as and when so required;
- (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; and
- (iii) the petitioner shall refrain from committing any offence similar to that with which he has been accused of in the instant case.

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

JUDGE

Comparing Assistant