

GAHC010047372024



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

Case No. : AB/699/2024

APNOOR HUSSAIN @ APNUR
S/O NAZRUL ISLAM, R/O VILL- BARKHABAL, WARD NO. 1, P.S.-
LAHARIGHAT, DIST- MORIGAON (ASSAM)

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2: BANESHA KHATUN
S/O LATE FAIJUL HOQUE
VILL- BARKHABAL
WARD NO. 1
P.S.-LAHARIGHAT
DIST- MORIGAON (ASSAM)

Advocate for the Petitioner : MD B ISLAM
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

23.04.2024

Heard Mr. B. Islam, learned counsel for the petitioner. Also heard Mr. D. P. Goswami, learned Additional Public Prosecutor appearing for the State respondent No.1 and Mr. R. A. Ahmed, 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, **Apnoor Hussain @ Apnur**, in connection with **Laharighat PS Case No. 287/2023**, registered under **Section 376/294 IPC R/W Section 4 of POCSO Act.**

It is submitted by the learned counsel for the petitioner that the petitioner had love affair with the victim girl and the petitioner is the neighbor of the victim. The informant, who was the father of the petitioner, had knowledge about the love affair with her daughter with the petitioner and he approached before the petitioner to get her married. As the petitioner refused, this false FIR has been lodged.

On the other hand, Mr. D. P. Goswami, Additional Public Prosecutor has produced the case diary and submits that the victim is the minor girl and she in her statement recorded under Section 164 Cr.P.C. submits that she has been sexually abused by the petitioner as such learned Public Prosecutor prays for dismissal of the bail application.

I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary and the statement of the victim recorded under Section 164 Cr.P.C. wherein she has stated that though she had love affair with the petitioner but on the date of incident as she was alone in her house, the accused petitioner took the advantage and called her outside the house and subsequently, he had committed sexual intercourse with her. The petitioner also took some photographs and threatened her if she discloses to her parents, then he would upload such photographs.

The school certificate of the victim is available in the case diary which

reveals that on the date of incident, she was minor.

In view of above, as there is sufficient incriminating material against the petitioner, the bail prayer of the petitioner stands rejected.

The anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant