

GAHC010049122024



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

Case No. : AB/624/2024

JOYDEP SARKAR
S/O JATIN SARKAR, R/O VILL-KUSHLAIGURI, P.S.-MANIKPUR, DIST-
BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 08.04.2024

Heard Mr. M. Khan, learned counsel for the petitioner. also heard Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, namely Joydep Sarkar, who is

apprehending arrest in connection with Manikpur P.S. Case No.02/2024 under Section 366 IPC.

Case diary is received. Perused the same.

It is submitted by the learned counsel for the petitioner that the victim girl herself eloped with the accused due to love relationship and she herself came back to her own house. Thus, this is not a case of 366 IPC. However, the petitioner is ready to appear before the I/O and will cooperate with the investigation if he is granted with the privilege of pre-arrest bail.

In this connection, learned Additional Public Prosecutor has submitted that there are sufficient incriminating materials against the present accused and the victim who has been rescued from Malda has also given her statement under Section 161 and 164 Cr.P.C.

Further it is submitted that though initially the case was registered under Section 366 IPC, but subsequently under the entire facts and circumstances of the case, after the recovery of the victim Section 370, 366A 376 IPC and Section 6 of the POCSO Act has been added.

Accordingly, learned Additional Public Prosecutor has raised objection in granting the privilege of pre-arrest bail to the petitioner.

Considering the submissions made by the learned counsel for both sides and also considering the material available in the case diary and the age of the victim at that relevant time, more so it is seen during the investigation, the I/O has added Section 370, 366A 376 IPC and Section 6 of the POCSO Act, I do not find it a fit case to grant the privilege of pre-arrest bail to the petitioner.

Accordingly, the anticipatory bail application stands rejected.

Return the case diary.

JUDGE

Comparing Assistant