

GAHC010049412024



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

Case No. : AB/630/2024

SABED ALI @ SABED ALI KHAN
S/O LATE MOKBUL ALI, R/O VILL- ALOMGANJ PART-IX, P.O.-LAOMGANJ,
P.S.-GAURIPUR, DIST-DHUBRI, ASSAM

VERSUS

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

2:SAKAT ALI (INFORMANT)
S/O LATE HAFIZ UDDIN
R/O FALIMARI PART-II
P.O.-FOLIMARI PART-II
P.S.-GAURIPUR
DIST- DHUBRI
ASSAM
PIN-78332

Advocate for the Petitioner : MR. R ISLAM, MR G U AHMED

Advocate for the Respondent : PP, ASSAM, MR. D GOGOI, Amicus Curiae (R-2)

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 07.08.2024

Heard Mr. G.U. Ahmed, learned counsel for the petitioner. Also heard
Mr. R.J. Baruah, learned Additional Public Prosecutor for the

State/respondent No.1 and Mr. D. Gogoi, learned *Amicus Curiae* for the respondent No. 2.

2. By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, namely, **Sabed Ali @ Sabed Ali Khan**, has prayed for granting pre-arrest bail, apprehending arrest in connection with Special Case No. 17/2024(arising out of Gauripur P.S. Case No. 827/2016), under Section 376(D) of IPC r/w Section 4 of POCSO.

3. It is submitted by the learned counsel for the petitioner that the police never visited the house of the petitioner although the petitioner was available in his house. It is also submitted that the victim girl did not say anything regarding involvement of the petitioner in this case. The learned counsel for the petitioner has also pointed out that in the medical report, there is no injury found by the Doctor on the private parts of the victim. It is further submitted that the petitioner was shown as absconder in the charge-sheet in a POCSO case, as such, he is apprehending arrest. Considering the fact that as there is no allegation made against the petitioner by the victim herself, benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand, Mr. Baruah, learned Additional Public Prosecutor has submitted that cognizance was taken against the petitioner under Section 376(D) IPC r/w Section 4 of POCSO Act. However, the learned Additional Public Prosecutor for the State submits that the petitioner may appear before the learned trial court for regular bail.

5. Mr. Gogoi, learned *Amicus Curiae* for the respondent No.2 has also

submitted that petitioner may approach before the learned trial court seeking regular bail.

6. I have considered the submissions made by the learned counsel for the parties. I have also perused the trial court record.

7. It appears from the record that charge-sheet has been submitted against the petitioner under Section 376(D) IPC r/w Section 4 of POCSO Act and subsequently, cognizance was also taken by the trial court.

8. In view of the above, the petitioner is directed to surrender before the learned trial court and in the event of filing any bail application, the learned trial court will consider the matter in accordance with law.

9. The pre-arrest bail application stands disposed of.

JUDGE

Comparing Assistant