

GAHC010054872024



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

Case No. : AB/694/2024

GULAM NABI AZAD
S/O MOHAMMAD ALI, R/O VILL- SIDHUNI, P.S.-BAGHBAR, DIST-BARPETA,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 04.04.2024

Heard Mr. N. Hoque, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor appearing 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 Gulam Nabi Azad, who is apprehending arrest in connection with Hatigaon P.S. Case No.35/2024 under Sections 366

IPC.

Case diary is received. Perused the same.

Learned Additional Public Prosecutor has submitted that he has received the 164 statement of the victim through WatsApp from the I/O.

In this context learned counsel for the petitioner has submitted that he is innocent and false and concocted allegations have been brought against the accused/petitioner in the FIR. However, he admits that he had love affair with the victim and he met with the victim in a beauty parlour where she used to work. But the allegation brought in the FIR is totally false. Subsequently, they propose to marry each other. As the family member of the victim did not accept their marriage proposal they already submitted their application for registration of their marriage under the Special Marriage Act. Further the accused is ready and willing to cooperate with the I/O in further investigation of the case if he is granted with the privilege of pre-arrest bail.

In this case, learned Additional Public Prosecutor has submitted that the victim did not say anything against the present accused petitioner in her statement made under Section 164 Cr.P.C. rather from her statement, it is seen that she was compelled to file the present FIR against the accused/petitioner. Further he submits that considering the materials available in the case diary it is seen that custodial interrogation of the petitioner may not be necessary for further investigation of the case.

Considering the submissions made by the learned counsel for both sides also considering that the victim was a minor at the time of the incident and other aspect of the case, I find that custodial interrogation of the petitioner may not be necessary in this case. Hence, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner named above in connection with Hatigaon P.S. Case No.35/2024 under Sections 366 IPC, he shall be enlarged on pre-arrest bail on his executing a bond of Rs.20,000/- only with one surety of the like amount to the satisfaction of the arresting authority subject to the following conditions:-

i.that the petitioner shall appear before the Investigating Officer of the case within a period of one week from today to enable recording of his statement;

ii. that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid case; and

iii.that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

With the above observation, anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant