

GAHC010055582024



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

Case No. : AB/711/2024

SINDU MOMIN AND ANR
S/O WINNERSON SANGMA, VILL- DALEK, P.S.-AGIA, DIST- GOALPARA,
ASSAM, PIN CODE - 783126

2: SONDA SANGMA @ SONTASH SANGMA
S/O SINOT SANGMA
VILL- BENGKANDA
P.S. AND DIST-GOALPARA
ASSAM
PIN CODE-78312

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SHRI DENANK MARAK
S/O-KALA SANGMA
VILL- JOGGAPARA
DEREK
P.S.-AGIA
DIST-GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. A MANNAF

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 11.06.2024

Heard Mr. A. Mannaf, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State of Assam and Mr. D. Gogoi, learned *Amicus Curiae* for the informant.

This is an application made under **Section 438 Cr.P.C.**, seeking pre-arrest bail by the petitioners, namely, **Sindu Momin and Sonda Sangma @ Sontash Sangma**, apprehending arrest in connection with **Agia P.S. Case No. 14/2024**, registered under Section **341/354/328/34 IPC r/w Section 8 of POCSO Act.**

The learned counsel for the petitioners submits that the petitioners are innocent having no involvement in the incident as alleged in the FIR. They never tried to commit rape upon the victim girl as alleged in the FIR. It is also submitted that the petitioners are married persons having their children and if they are arrested in connection with this case, they would definitely be humiliated. Considering the nature of the offence, learned counsel for the petitioners prays that the benefit of pre-arrest bail may be extended to the petitioners.

On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has produced the case diary and submitted that as per statement of the victim girl recorded under Section 164 Cr.P.C., there is allegation against the petitioner No.2 i.e. Sonda

Sangma @ Sontash Sangma. It is also submitted that as there is no allegation against the petitioner No. 1 as such, he has no objection if the prayer of the petitioner No. 1 may be considered.

Mr. Gogoi, learned *Amicus Curiae* for the informant/respondent No. 2 has raised strong objection against the prayer of the petitioner No. 2 but he has no objection if the prayer of the petitioner No. 1 may be considered.

I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

It appears from the statement of the victim girl recorded under Section 164 Cr.P.C. wherein she clearly stated that the petitioner No. 2 i.e. Sonda Sangma @ Sontash Sangma had tried to commit rape on her by removing her clothes and also touched her private parts but the petitioner No. 1 left the place of incident.

In view of the above, the prayer of the petitioner No. 2 is rejected. However, this Court finds that custodial interrogation of the petitioner No.1 is not required for the purpose of investigation of the case. Therefore, the petitioner No. 1 i.e. Sindu Momin is granted the privilege of pre-arrest bail.

Accordingly, it is provided that in the event of arrest of the petitioner No.1, Sindu Momin, in connection with **Agia P.S. Case No. 14/2024**, registered under Section **341/354/328/34 IPC r/w Section 8 of POCSO Act**, he shall be released on furnishing bail bond of **Rs.10,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that

the petitioner No.1:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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.

The anticipatory bail application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant