

GAHC010057802024



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

Case No. : Bail Appln./798/2024

ABUL KHAYER
S/O NUR HUSSAIN
R/O DAULATPUR
P.S. BIHPURIA
DIST.LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 08.04.2024

Heard Mr. MH Ahmed, learned counsel for the petitioner and Mr. R.R. Koushik, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 439 Cr.P.C., filed by the petitioner namely, Abul Khayer, praying for bail, who was arrested on 28.02.2024 in

connection with Bihpuria P.S. Case No. 35/2024 under Sections 376/384/354(C) IPC read with Section 67 of the IT Act.

Perused the case diary.

It is submitted by the learned counsel for the petitioner that the allegations made against the petitioner is false and concocted and the FIR has been lodged after 2 years of the incident and there is no explanation as to why the informant took two years of time to lodge the complaint.

It is also submitted that though the case was registered under Section 376 IPC but as the victim was a minor girl and is a married woman, the victim was having the physical relationship with her consent.

The learned counsel for the petitioner has also submitted that the petitioner has been detained in custody for last 42 days since his arrest on 28.02.2024. Considering the length of detention, he may be enlarged on bail.

The learned Additional Public Prosecutor has produced the case diary and submits that the victim has implicated the petitioner in her statement recorded under Section 164 Cr.P.C.

I have perused the statement of the victim recorded under Section 164 of the Cr.PC which reveals that the victim and the petitioner were known to each other prior to the incident and during that period they had love affairs and had physical relationship also. Subsequently she got married to her present husband.

On perusal of the case diary it reveals that substantial part of the investigation has been completed, as such further custodial interrogation of the petitioner is not warranted.

Accordingly, it is directed that the accused/ petitioner be released on bail on furnishing a bond of Rs. 20,000/- with a suitable surety of like amount to the satisfaction of the learned CJM, Lakhimpur, North Lakhimpur in connection with the aforementioned case.

The direction for bail is further subject to the conditions that the accused-petitioner:

- (a) shall not hamper with the investigation and tamper with the evidence of the case; and
- (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.

In terms of the above, this bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant