

GAHC010066372024



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

Case No. : AB/1127/2024

DIBYAJYOTI RAJBONGSHI
S/O - SRI ATUL RAJBONSHI RESIDENCE OF VILLAGE - JAYANTIPUR P.O.-
BURHA P.S.- SIPAJHAR DISTRICT- DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

24.05.2024

1. Heard Mr. M. Hoque, the learned counsel for the petitioner. Also heard Mr. K. K. Parashar, learned Additional Public Prosecutor for the State of Assam.
2. By this application under Section 438 Cr.P.C., the petitioner, namely, **Dibyajyoti Rajbongshi** is seeking pre-arrest bail in connection with G.R. Case

No. 1242/2023 (P.R.C. Case No. 133/24) under Section 376(1)/109/506 of the IPC arising out of Sipajhar P.S. Case No. 272/2023 under Section 376(1)/109/506 of IPC pending before the learned Judicial Magistrate First Class, Darrang, Mangaldai.

3. The petitioner filed a complaint petition before the Court of learned Chief Judicial Magistrate, Darrang, Mangaldai against one Smti. Sabitri Rajbongshi inter alia alleging that the said Sabitri Rajbongshi had spread a false news that the petitioner raped her. On the basis of such application a case being CR Case No. 79/2023 under Section 500 of IPC was registered which is pending before the learned Judicial Magistrate First Class, Darrang, Mangaldai.
4. Thereafter, said Sabitri Rajbongshi, on 15.07.2023 lodged an F.I.R. before the Superintendent of Police, Darrang inter alia alleging that she has been raped by the present petitioner. The aforesaid case was registered as Sipajhar P.S. Case No. 272/2023 under Section 376(1)/109/506 of IPC.
5. The investigating officer after completion of investigation filed Charge Sheet being CS No. 391/ 2023 dated 30.08.2023. Now, the petitioner has approached this Court, apprehending arrest in this case inasmuch as already NBWA has been issued by the learned committal Court.
6. This Court under its order dated 02.05.2024, called for the scanned copy of the case diary of Sipajhar PS Case No. 272/2023 and the case record of PRC Case No. 133/2024 from the court of learned JMFC, Darrang, Mangaldai.
7. Case diary is produced. Perused the same.
8. From the perusal of the case diary, it is reveals that the FIR was lodged after almost 6 (six) months from the alleged date of incident and it is also seen from the case record that the victim has refused to undergo the medical examination and the facts also remains that the complaint case was filed on earlier point of time by the petitioner.

9. As the investigating officer has already completed the investigation and filed charge sheet, this Court is of the view that no meaningful purpose shall be achieved, in the given facts of the present case, if the petitioner is put behind bar inasmuch as the petitioner has specifically stated in this petition that he will participate in the trial and shall not abscond and will not influence any witnesses.
10. Considering the above, this Court is of the view that the petitioner has been able to make out a case for grant of anticipatory bail. Accordingly, it is hereby provided that, in the event of arrest, the petitioner, namely, **Dibyajyoti Rajbongshi** shall be allowed to go on bail on furnishing a bond of Rs. 20,000/- with one local surety of like amount to the satisfaction of the learned Sub Divisional Judicial Magistrate, Darrang, Mangaldoi.

The bail is granted on the following conditions:

- (1) The petitioner shall appear before the learned Sub Divisional Judicial Magistrate, Darrang, Mangaldoi within 10 (ten) days from today to get his statements recorded,
- (2) The petitioner shall not hamper with the investigation, or tamper with the evidence of the case,
- (3) 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.

It is provided that the learned Magistrate may put additional condition if so desires.

This bail application stands disposed of.

JUDGE

Comparing Assistant