

GAHC010075052024



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

Case No. : AB/966/2024

MD. RAZIUL ISLAM
S/O MD. AZZAD HUSSAIN,
R.O - ASKIKANDI, P.S - PHULBARI, DIST - WEST GARO HILLS,
MEGHALAYA 794104

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PP ASSAM

2:SHAFINUR BEGUM
D/O SIRAFUL ISLAM

R/O VILLAGE MANKACHAR MIAPARA
P.S MANKACHAR
DIST SOUTH SALMARA MANKACHAR
ASSAM. 78313

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

06.05.2024

1. Heard Mr. M. Hussain, learned counsel for the petitioner. Also heard Mr.

K.K. Parasar, learned Additional Public Prosecutor, Assam appearing for the State respondent and Mr. A.Z. Ahmed, learned counsel for the respondent No.2/victim girl.

2. This is a third application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the accused petitioner, namely **Md. Raziul Islam**, who is apprehending arrest in connection with **Mankachar Police Station Case No. 415/2023** registered under Sections **336(A)/343/34** of the IPC added Section **376(2)(n)** of the IPC read with Section **6** of the POCSO Act, 2012.

3. The case diary, as called for, is placed before this Court.

4. The case of the prosecution in brief is that the petitioner has kidnapped the daughter of the informant in connivance with the other accused from Mankachar College premises and has illegally confined her and has illegally solemnized marriage with her. It is further alleged that the accused No. 1 is also suspected to have committed rape on the informant's daughter. Accordingly, a case has been registered.

5. It is pertinent to mention here that by orders dated 23.01.2024 and 11.03.2024 this Court had earlier rejected the earlier anticipatory bail applications made on behalf of the petitioner being A.B. No.4334/2023 and A.B. No.475/2024.

6. Mr. M. Hussain, learned counsel for the petitioner submits that pursuant to the aforesaid rejection of anticipatory bail applications, the matter has been amicably settled between the parties and the arrangement of the marriage between the victim girl and with the present petitioner is going on. Regarding the amicable settlement the victim girl on 28.03.2024 sworn an affidavit before

the Notary Public, Hatsingimari, South Salmara, Mankachar, wherein the victim girl categorically averred that they will perform their marriage as per law and that she voluntarily eloped with the petitioner and that the petitioner did not commit rape on her.

7. Mr. K.K. Parasar, learned Add. P.P. submits that in the statement recorded under Section 164 Cr.P.C. the victim girl has clearly implicated the petitioner.

8. Mr. A.Z. Ahmed, learned counsel for the respondent No.2/victim girl submits that the matter has been amicably settled between the parties and to that effect the victim girl has already filed a Notary affidavit, which is enclosed as Annexure-5 to the anticipatory bail application. He accordingly submits that the victim girl is going to be married lawfully with the petitioner and hence, in the interest of their peaceful marriage the anticipatory bail application be allowed.

9. I have heard the parties at length and perused the materials available on record.

10. In view of the endorsement made by the learned counsel appearing on behalf of the victim girl and perusing the affidavit sworn by the victim, which is enclosed as Annexure-5 to the anticipatory bail application, this Court is of the considered view that there is no justification for custodial interrogation of the petitioner for the ongoing investigation.

11. Accordingly, the anticipatory bail application stands allowed.

12. It is provided that in the event of arrest, the petitioner named above shall be released on pre-arrest bail in connection with the above noted case on furnishing bail bond of **Rs.15,000/-** with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:-

- (i) That the petitioner shall appear before the investigating officer within 10 days, failing which on and from the 11th day this anticipatory bail order shall have no force;
- (ii) 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, and
- (iii) That the petitioner shall refrain from such activities with which he is alleged.

13. Return the case diary.

14. This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant