

GAHC010077392024



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

Case No. : AB/1013/2024

ENAMUL ALI
S/O AMIR HAMJA, R/O VILL- BORIBANDHA, P.S.-LAHARIGHAT, DIST-
MORIGAON, ASSAM, PRESENT ADD- GREEN PATH, HATIGAON, P.S.-
HATIGAON, GUWAHATI-38, DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:RUMI BEGUM
W/O SAMSUL ALI
R/O VILL- SHAH NAGAR
GREEN PATH
HATIGAON
P.S.-HATIGAON
GUWAHATI-38
DIST-KAMRUP (M)
ASSA

Advocate for the Petitioner : MR J C BORAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

24.06.2024

Heard Mr. J. C. Borah, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State.

Mr. M. P. Goswami, learned Additional Public Prosecutor for the State submits that service upon the respondent No. 2 has been effected.

By this Application under Section 438 of the Cr.P.C., the petitioner namely, **Enamul Ali** is seeking pre-arrest bail in connection with the Dispur P.S. Case No. 262/2024 registered under Sections 328/376 of IPC read with Sections 4/8 of the POCSO Act, 2012.

In the FIR, it is alleged that the present accused had committed rape upon the minor daughter of the informant. It is further alleged that the minor daughter of the informant was taken in an Innova vehicle and the accused offered her some substance for which she became unconscious and thereafter she was raped.

Perused the case diary available on record. Also perused the statement of the victim recorded under Section 164 of Cr.P.C.

The materials so far collected including the statement of the witnesses, suggests that the allegation is not of rape but it is the case of the victim that the victim felt that the accused touched her arm and legs. The materials so far collected is also suggestive of a fact that the accused along with the other boys and girls went for ride on the date of holi festival and they were under intoxication.

Considering the matter in entirety more particularly, the material aforesaid, this Court is of the view that the custodial interrogation of the present petitioner may not

be necessary for further investigation inasmuch as the investigation is at very advance stage and the statement of the victim as well as other independent witnesses have already been recorded by the police. The victim has medically been examined which also suggests no injury or rape.

Accordingly, it is hereby provided that, in the event of arrest, the petitioner, namely, **Enamul Ali** 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 arresting authority.

The bail is granted on the following conditions:

- (1) The petitioner shall appear before the Officer-in-Charge, Dispur Police Station within 10 (ten) days from today to get his statement 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.
- (4) The petitioner shall not try to contact the victim by any means including social media etc.

This bail application is disposed of.

Return back the case diary.

JUDGE

Comparing Assistant