

GAHC010078922024



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

Case No. : AB/1034/2024

ANOWAR HUSSAIN
S/O - LAL CHAN SHEIKH,
R/O- VILL- DALANER ALGA FT. II,
P.O.- RANGAMATI, P.S.- GAURIPUR, DISTRICT - DHUBRI, ASSAM
PIN- 783339

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

06.05.2024

Heard Mr. S. Das, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This application under Section 438 of the Code of Criminal Procedure, 1973 praying for grant of pre-arrest bail to the petitioner, who has been apprehending arrest in connection with Gauripur P.S. Case No.73/2024 under Section 376 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Das that a false and concocted allegation has been brought against the present petitioner only due to some land dispute. It is contended by the petitioner that the informant is his sister-in-law and her husband is his own brother. He further submitted that the aforesaid FIR was lodged against the present petitioner only because he agreed to sale the land for his mother treatment which was objected by the informant and her husband and for which there was dispute between the parties. The petitioner is ready and willing to co-operate with the IO in further investigation of the case, if he is granted with the privilege of pre-arrest bail.

In this regard, Mr. Sharma, learned Additional Public Prosecutor has submitted that from the materials available in the case diary and from the statement recorded by the witnesses, it is seen that there was a land dispute

between the parties and none of the witnesses knew about the rape, however, they have seen the altercation between the parties.

Considering the submissions of learned counsels of both sides and also considering the nature of offence as well as the materials in the Case Diary, I find that custodial interrogations of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/applicant, namely, Anowar Hussain, in connection with Gauripur P.S. Case No.73/2024 under Sections 376 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer within 7(seven) from today.
- (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 not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant