

GAHC010084222024



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

Case No. : AB/1157/2024

BAKUL SK
S/O LATE ABDUL RAHMAN,
VILL.- BEDLANGMARI, P.S.- KOKRAJHAR, DIST.- KOKRAJHR, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. D GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

26.06.2024

Heard Mr R Bora, learned counsel for the petitioner, Bakul Sk, who has filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Kokrajhar PS Case No. 37/2024, under Section 354/376/447/294/506/34 of the Indian Penal Code, 1860.

3. Heard Mr D P Goswami, learned Additional Public Prosecutor for the State of Assam/respondent.
4. The learned Additional Public Prosecutor has raised objection against the pre-arrest bail application as the statement of the victim under Section 164 CrPC, incriminates the petitioner
5. It is submitted on behalf of petitioner that the complaint was filed by the victim after one month, which clearly reveals that the complaint is an afterthought. Nowhere, it has surfaced that the victim had earlier lodged any FIR under Section 154 CrPC, nor any complaint was made before the SP, but without any such measures, after a month this complaint was filed, which clearly makes this complaint redundant. Thereafter, the victim and the petitioner have settled their dispute amicably.
6. Annexure-D annexed with the additional affidavit clearly reveals that the victim has no objection if the petitioner is enlarged on bail.
7. It is further averred that the informant had one month's time to concoct a false case against the petitioner. The allegations earlier made against the petitioner are that the petitioner used to make explicit remarks to the victim, outraging her modesty. The petitioner then on 01.01.2018, outraged the victim's modesty and disrobed her and the other accused named in the complaint petition also abetted in the commission of such offence. The accused named in the FIR have also defamed the complainant/victim by circulating scandalous remarks against the victim. The victim has also assigned reasons

of delay of filing the complaint petition.

8. I have scrutinized the Case Diary and the complaint petition.

9. It appears that pre-arrest bail may be granted to the petitioner.

10. I have considered the submission that the petitioner is willing to cooperate with the investigation and to abide by any stringent conditions, if imposed upon him. The petitioner is a local resident and he is not a flight risk.

11. Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/-, with one suitable surety of like amount to the satisfaction of the arresting authority, under the conditions that:-

- i) the petitioner shall appear before the IO within 7 (seven) days from today and cooperate with the investigation and thereafter, the petitioner shall appear before the IO on every fortnight, till completion of investigation,
- ii) the petitioner shall not exercise threats to the victim or other witnesses; and
- iii) the petitioner shall not leave the jurisdiction of the Court, without prior permission.

On breach of any of the bail conditions, the bail order shall stand cancelled.

12. Bail Application stands disposed of.

13. Send back the Case Diary.

JUDGE

Comparing Assistant