

GAHC010098442024



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

Case No. : AB/1273/2024

ABDULLAH MANDAL @ ABDULA MANDAL
S/O SAJAHAN MANDAL
R/O VILL- PIRADHARA PT.II
P.S. ABHAYAPURI
IN THE BONGAIGAON DISTRICT OF ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

12.06.2024

- 1.** Heard learned counsel Mr. S. Nawaz, for the petitioner, Abdullah Mandal.
- 2.** This application has been filed under Section 438 Cr.PC with prayer for pre-arrest bail as the petitioner is apprehending arrest in connection with

Abhayapuri P.S. Case No. 115/2024 under Sections 493/376/506 of the IPC.

3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State.

4. The FIR unfolds that the petitioner got acquainted with the informant over phone. Through phone calls, he used to make obscene gestures towards the victim. On 22.04.2024, the victim visited her uncle's house which is situated near the petitioner's house. Taking advantage of absence of the victim's uncle and other family members, the petitioner came to the victim's uncle's house and promised to marry her and forcefully had sexual intercourse with her. The petitioner also threatened to upload the pictures and make them viral, and also he threatened her not to divulge about the incident to anyone.

5. The learned Additional Public Prosecutor has raised objection against the petition stating that the statement of the victim under Section 164 of the Cr.PC incriminates the petitioner.

6. I have scrutinized the Case Diary.

7. It is submitted on behalf of the petitioner that the FIR was lodged after a delay of 6 days after the incident, giving sufficient scope for fabrication of the FIR.

8. It is admitted by the petitioner that he had visited the victim's uncle's house. On 17.04.2024 at around 9.27 a.m., the informant/victim called the petitioner and invited him to her uncle's house but the petitioner was tricked and when he reached the victim's uncle's house, they were surrounded by the family members who demanded that the petitioner should marry the victim. As the petitioner has not attained majority, he has promised to marry the victim after he attains his majority. The petitioner has denied that he has threatened the victim. The petitioner has admitted that he had a love relationship with the

victim and that the victim had a platonic relationship with the petitioner.

9. The Case Diary reveals that investigation has progressed to a considerable extent.

10. It appears that custodial interrogation may not be required.

11. After scrutinizing the Case Diary, it appears that the petitioner can be granted pre-arrest bail.

12. Considering all aspects and in view of my foregoing discussions, petition is allowed.

13. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/- (Rs. Fifty Thousand) with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that;

(i) the petitioner shall appear before the Investigating Officer within 1 (one) week and co-operate with the investigation;

(ii) the petitioner shall not exercise threats to the victim or go anywhere near the vicinity of the victim, and

(iii) the petitioner shall not leave the jurisdiction of the Court without prior permission.

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

14. Send back the Case Diary.

JUDGE

Comparing Assistant