

GAHC010098932024



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

Case No. : AB/1303/2024

RASHIDUL ISLAM @ RAKIBUL HAQUE
S/O JAHIDUR RAHMAN
R/O VILL- BALADOBA, PART-II, P.O. BALADOBA
P.S. DHUBRI,
IN THE DHUBRI DISTRICT OF ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP BY THE PP ASSAM

2:MALMALI BIBI
W/O MOHOR UDDIN
VILL- VILL- BALADOBA PART-II
P.O. BALADOBA
P.S. DHUBRI
DIST. DHUBRI
ASSA

Advocate for the Petitioner : T A LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 02-07-2024

Heard Mr. D K Agarwala, the learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State of Assam.

None appears for the respondent no. 2 - informant though name is shown in the cause list.

By this application under Section 438 Cr.P.C., the petitioner, namely, **Rashidul Islam @ Rakibul Haque** is seeking pre-arrest bail in connection with Dhubri P.S. Case No. 144/2024 under Sections 376/511 of the IPC r/w Section 8 of the Protection of Children from Sexual Offences Act, 2012.

The learned Addl. Public Prosecutor has produced the Case Diary.

Perused the same.

Mr. Baruah while producing the Case Diary submits that since the allegation is serious and heinous in nature, therefore the petitioner should not be granted the privilege of anticipatory bail at this stage.

Materials so far collected by the Investigating Authority as well as the materials available on record suggest that on 26.04.2024, the mother of the present petitioner lodged an F.I.R. before the Office-in-Charge Soulmari Police Outpost *inter alia* alleging that on 18.04.2024, her minor daughter (the sister of the present petitioner) has been raped by two accused namely, Jahidur Rahman and Mobarak Ali. Accordingly, Dhubri P.S. Case No. 143/2024 under Section 365/376/506/34 IPC r/w Section 4 of the POCSO Act was registered and accused Jahidur Rahman was arrested.

On the same date itself, i.e., 26.04.2024, the mother of Jahidur Rahman lodged an F.I.R. that on 25.04.2024, her daughter (the sister of Jahidur Rahman) was raped by the present petitioner namely, Rakibul Haque.

Perusal of the materials so far collected including the statement of the victim and the medical evidence, in the considered opinion of this Court, do not warrant any custodial interrogation of the present petitioner.

Having regard to the facts and circumstances of the case including the nature of the allegation and the circumstances under which the F.I.R. was lodged, it is hereby provided that, in the event of arrest, the petitioner, namely, **Rashidul Islam @ Rakibul Haque** shall be allowed to go on pre-arrest bail on furnishing a bond of Rs. 20,000/- with one local surety of like amount to the satisfaction of the arresting authority.

The pre-arrest bail is granted on the following conditions:

- (1) The petitioner shall appear before the Officer-in-Charge, Dhubri Police Station within 10 (ten) days from today to get his statements 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.

The anticipatory bail accordingly stands disposed of.

Case diary be returned back.

JUDGE

Comparing Assistant