

GAHC010112212024



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

Case No. : AB/1470/2024

IRFAN ALI
S/O FIROZ ALI
A RESIDENT OF VILL- JUNGLE BLOCK,
P.O.JUNGLE BLOCK, DIST. HOJAI, ASSAM, PIN-782428

VERSUS

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

2:AZIM UDDIN
S/O UNKNOWN
R/O VILL- DOBOKA NALA
P.S. DOBOKA
DIST. HOJAI
ASSAM
PIN-78244

Advocate for the Petitioner : T A LASKAR, MR S A BARBHUYAN

Advocate for the Respondent : PP, ASSAM, MS. R CHOUDHURY, Amicus Curiae (R-2)

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 22.08.2024

Heard Mr. T.A.Laskar, learned counsel for the petitioner as well as Mr.

D.P.Goswami, learned Addl. P.P., Assam for the State respondent No.1. Also heard Ms. R.Choudhury, learned Amicus Curiae for respondent No.2.

This application under section 438 CrPC has been filed by the petitioner, namely **Irfan Ali** praying for pre-arrest bail apprehending arrest in connection with **Doboka P.S. Case No. 83/ 2024** under Section 376(1) of the IPC r/w Section 4 of POCSO Act.

Learned counsel for the petitioner submits that the petitioner had love affairs with the victim girl. The FIR has been lodged at the instigation of the family member of the victim that the petitioner had committed rape on the victim by using force. As the petitioner is innocent, the benefit of pre-arrest bail may be extended to him.

Learned Addl.P.P. has produced the case diary and submits that the victim has implicated the petitioner to be involved in the case and accordingly learned Addl.P.P. prays for dismissal of the bail application. Learned Amicus Curiae for the respondent No.2 also has opposed in granting bail to the petitioner.

I have considered the submission of learned counsel for the parties and perused the case diary.

From the statement of the victim recorded under Section 164 CrPC, it reveals that on the date of incident, when she went out for nature's call, the petitioner gagged her mouth and dragged her forcefully to a nearby field and committed rape on her. Medical report also reveals that hymen of the victim was ruptured.

Considering the matter in its entirety, this Court is not inclined to grant privilege of pre-arrest bail to the petitioner at this stage.

Accordingly, the anticipatory bail application stands rejected.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant