

GAHC010120692024



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

Case No. : AB/1575/2024

AJAY BARMAN AND ANR
S/O ANURADHA BARMAN, R/O VILL AND P.O.-MUNDIRA, P.S.-BOKO, DIST-
KAMRUP, ASSAM

2: SANJAY BARMAN @ SUNJO BARMAN @ SUNJAY BARMAN
S/O ANURADHA BARMAN
R/O VILL AND P.O.-MUNDIRA
P.S.-BOKO
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

24.07.2024

1. Heard Mr. H. Das, learned counsel for the petitioners.

2. The petitioners namely 1. Ajay Barman and 2. Sanjay 2. Barman @ Sunja Barman @ Sunjay Barman have filed this application under Section 438 of the Code of Criminal Procedure, 1973 (CrPC for short) with a prayer for pre- arrest bail as they are apprehending arrest in connection with Dhupdhara Police Station Case No. 17/2024 under Sections 294/376/313/506 of the Indian Penal Code, 1860 (GR Case No. 253/2024)

3. Heard Mr. R. R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State.

4. The allegation against the petitioner No. 1 is that on 08.12.2023 at about 10:00 PM in absence of family members in the victim's house, the petitioner No. 1 by showing her a dagger, committed rape on her. Thereafter, the petitioner No. 1 promised to marry the victim and had physical relationship with the victim. On 20.01.2024, the victim realized that she was pregnant and she informed the petitioner No. 1 about her pregnancy. On 27.01.2024, the petitioner No. 1 sent a tablet to the victim through the petitioner No. 2. After the victim consumed the tablet, she suffered from abortion and she had to suffer physically due to the abortion. The petitioner No. 1 blocked the victim's phone number and the victim could not contact the petitioner No. 1. Finally, the victim lodged this FIR on 12.02.2024.

5. It is submitted on behalf of the petitioners that a bare reading of the FIR clearly reveals that the victim had a love relationship with the petitioner No. 1 and the relationship between both the parties was consensual. A false case has been initiated against the petitioners and if they are forwarded to custody in connection with a palpably false case, the petitioners will be highly prejudiced because the offence is of grave nature.

6. I have considered the submissions at the Bar with circumspection.

7. I have also scrutinized the Case Diary.

8. The petitioners have already been granted interim bail. They have appeared before the Investigating Officer and their statements have been recorded. The petitioners have not violated any bail conditions.

9. The petitioners are local residents and they are not flight risks. The petitioners have pledged to co-operate with the remaining part of the investigation.

10. Considering all aspects and in view of my foregoing discussions, interim order dated 18.06.2024 is hereby made absolute.

11. Send back the Case Diary.

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JUDGE

Comparing Assistant