

GAHC010122842024



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

Case No. : AB/1590/2024

RAKTIM GOSWAMI
S/O LATE RAMESH CH. GOSWAMI
R/O OPPOSITE ASHRAM ROAD, BYE LANE, HOUSE NO. 24, GUWAHATI-
781009, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 28-06-2024

Heard Mr. N.J. Das, learned counsel for the petitioner Raktim Goswami, who has filed this application under Section 438 of the Code of Criminal Procedure, 1973 with prayer for pre-arrest bail as he is apprehending arrest in connection with All Woman Police Station Case No. 21/2024 registered under

Section 376 (2)(f) of the Indian Penal Code, 1860.

2. Heard Mr. D.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State.

3. The FIR unfolds that the victim is the employee of the boutique "Shion" which is owned by the petitioner. During her tenure as an employee in the petitioner's boutique, her mother took ill and was hospitalized. She is the sole bread winner of the family and she was unable to pay the hospital bills. At that time, the petitioner helped her by providing Rs.11,000/- (Rupees Eleven Thousand) and the petitioner also stated that the money need not to be returned to him as it was paid as salary advance. Later on, when the victim returned to work in the boutique the petitioner induced the victim to have physical relationship with him and as the victim had no other option and was immature at that time, she indulged in a physical relationship with the petitioner along with the petitioner's wife. As the victim was terrified with the situation, she left her job and blocked the numbers of the petitioner and his wife. Now, the petitioner's wife is threatening her.

4. It is submitted on behalf of the petitioner that the FIR prima facie reveals that no case under Section 376 (2) (f) of the IPC is made out against the petitioner. Rape is defined under Section 375 of the IPC and to commit an offence of rape, the victim has to be assaulted without her consent and against her will. It is not possible that the petitioner's wife will also be complicit in such an offence.

5. The learned Additional Public Prosecutor has submitted that the petitioner has appeared before the Investigating Officer and his statement has been recorded.

6. I have scrutinized the Case Diary. It appears that interim bail may be granted to the petitioner.
7. Considering all aspects, petition is allowed.
8. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the arresting authority.
9. In the above terms, this Anticipatory Bail application stands disposed of.
10. Send back the Case Diary.

JUDGE

Comparing Assistant