

GAHC010129822024



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

Case No. : AB/1700/2024

MOIDUL HOQUE SARKAR
S/O HAMID ALI SARKAR, VILL- BINYASARA PT.I, P.O.-BALADOBA, P.S.-
GOLOKGANJ, DIST- DHUBRI, ASSAM, PIN-783334

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SIRAJUL HOQUE (INFORMANT)
S/O LT. ABDUR RAHMAN
VILL- DURAHATI
P.O.-TISTARPAR
P.S. AND DIST- DHUBRI
ASSAM
78332

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, MR. T ISLAM, MD A HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 02.08.2024

Heard Mr. P.K.Roychoudhury, learned counsel for the petitioner. Also

heard Mr. D.P.Goswami, learned Addl. Public Prosecutor for the State/respondent No.1. Also heard Mr. A.Z.Ahmed, learned counsel for the respondent No.2.

By filing this 2nd petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, namely, **Moidul Hoque Sarkar** has prayed for granting pre-arrest bail, apprehending arrest in connection with **Dhubri P.S. Case No. 133/2024** (GR Case No.421/2024) u/s 376 (3)/511/509 r/w Section 8 of the POCSO Act.

It may be mentioned herein that vide order, dated 05.06.2024 passed in AB/1143/2024, earlier pre-arrest bail application of the petitioner was rejected by this court.

Learned counsel for the petitioner submits that the petitioner is the Assistant teacher of B.B.Simanta Pre-Senior Madrassa. The informant had falsely implicated the petitioner in the instant case as the petitioner refused to provide tuition to his daughter. Considering the background of the case and the nature of the offence, benefit of pre-arrest bail may be extended to the petitioner.

Learned Addl. Public Prosecutor has produced the case diary and submits that the petitioner may appear before the learned Special Judge and apply for bail.

The learned counsel for the respondent No.2 objects the prayer of the petitioner and submits that petitioner had committed sexual assault on the victim.

Having heard learned counsel for the parties and on perusal of the averments made in the petition and the previous bail order passed by this court,

it is seen that no new ground has been made in the instant pre-arrest bail application and considering the nature of the allegation in its entirety, the pre-arrest bail application of the petitioner is rejected.

However, the petitioner is at liberty to approach before the learned Special Judge (POCSO Act), Dhubri and in the event of filing any bail application, the same shall be considered by the learned Special Judge in accordance with law.

The pre-arrest bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant