

GAHC010131502024



2024:GAU-AS:12221

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

Case No. : AB/1698/2024

RUHUL AZAD BARBHUIYA
S/O LATE MAKTA ALI BARBHUIYA
R/O VILL- BOILIPAR PART-I, P.S. HAILAKANDI, DIST. HAILAKANDI

VERSUS

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

2:SARIKA BEGUM LASKAR
D/O LATE MOINUL HOQUE LASKAR
VILL- SAYEDBOND PART-II
P.O. KALIBARI BAZAR

P.S. AND DIST. HAILAKANDI
ASSAM

PIN-78815

Advocate for the Petitioner : MR. A M S MAZUMDER,

Advocate for the Respondent : PP, ASSAM, MR. N H BARBHUIYA (R-2),MR. A PHUKAN,
AMICUS CURIAE

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

03-12-2024

Heard Mr. A M S Mazumdar, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. N H Borbhuiya, learned counsel for the respondent No. 2/informant of the case.

2. Apprehending his arrest, the petitioner namely, **Rahul Azad Barbhuiya**, son of late Makta Ali Barbhuiya, resident of village-Boalipar Pt-I, P.S.-Hailakandi, District- Hailakandi has filed this application under Section 438 CrPC, seeking pre arrest bail in **Hailakandi Police Station Case No. 139/2024** registered under Sections 506/376/354/427/509/34 IPC read with Section 6 of the POCSO Act, 2012.

3. As per the FIR dated 30.05.2024 lodged by the victim informant before the Officer-in-Charge of Hailakandi Police Station, the case is that while she was about 17 years old, she came into acquaintance with the petitioner and taking advantage of that he used to visit her house in absence of other family members. During such visit, the petitioner forcibly had physical relation with her, in spite of her objection and resistance. Without her knowledge, the petitioner videographed such physical relation with her. Showing such videograph and by threatening the informant, the petitioner on many occasions had physical relation with her. She on coming to know about his character, did not continue her relation with the petitioner. On 03.06.2024 her marriage was fixed with a person, but the petitioner showing the obscene videograph of her to her would be groom, broke her marriage with him and threatened her of dire consequence if she thinks of marrying others. Though the informant/complainant approached the brother of the petitioner, requesting him to help her in solving the issue but he did not help her. As such, under such compelling situation, the victim as complainant lodged the FIR of the case.

4. Accordingly, the said FIR dated 30.05.2024 was registered as Hailakandi P.S. Case No. 139/2024 under Sections 506/376/354/427/ 509/34 IPC read with Section 6 of the POCSO Act, 2012.

5. Perused the case diary placed before the Court today by Mr. B Sarma, learned APP, Assam as well as her statement recorded by the learned Judicial Magistrate under Section 183 BNSS in which the victim/complainant had narrated the same, as been stated in her FIR dated 30.05.2024 lodged before the Officer-in-Charge of Hailakandi Police Station. However, in her such statement she added that in the meanwhile, she got married with another person.

6. Mr. N H Borbhuiya, learned counsel for the respondent No. 2/informant/victim of the case, on instruction, has submitted that since she has already been married with another person, she does not have any objection in granting pre-arrest bail to the petitioner.

7. It is seen from the case diary that the concerned Investigating Officer of the case has already recorded the statements of the independent witnesses as well as the victim and her family members.

8. Considering the above, the Court is of the view that custodial detention of the petitioner is not warranted for investigation of said Hailakandi P.S. Case No. 139/2024. As such, this pre arrest bail application of the petitioner is accepted.

9. Accordingly, it is provided that in the event of arrest of the petitioner, namely, **Rahul Azad Barbhuiya**, in said Hailakandi P.S. Case No. 139/2024, he shall be released on bail on furnishing bail bond of Rs. 50,000/-, with two local sureties each of the like amount, one of which shall be a Government Employee, either State or Central Government, to the satisfaction of the arresting authority, subject to the conditions that petitioner, named above

—
i) shall appear before the concerned Investigating Officer of said Hailakandi P.S. Case No. 139/2024 **on or before 09.12.2024** and thereafter, as and when he is required for necessary investigation of the case;

ii) shall not leave the territorial jurisdiction of Hailakandi Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case;

iii) shall not hamper with the investigation, or tamper with the evidence of the case;

iv) 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 them from disclosing such facts to the Court or to any police officer;

v) shall not threaten the victim/complainant or anyone in her family by himself or by others, acting on his behalf by any means and

vi) shall not involve himself in any criminal activities in future.

10. Any violation of the aforesaid terms and conditions by the petitioner, namely, **Rahul Azad Barbhuiya**, the pre-arrest bail granted to him in said Hailakandi P.S. Case No. 139/2024 shall stand automatically vacated.

11. This pre-arrest bail application accordingly stands allowed.

12. Return the Case Diary herewith.

JUDGE

Comparing Assistant