

GAHC010143462024



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

Case No. : AB/1933/2024

GAJIBOR RAHMAN AND ANR.
S/O SANOWAR ALI
R/O VILL- NIDANPUR PT.II,
P.S. LAKHIMPUR, DIST. GOALPARA, ASSAM, PIN NO. 783129

2: MAJER ALI @ MONSER ALI
S/O ANOWAR HUSSAIN
R/O VILL- NIDANPUR PT.II
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN- 78312

VERSUS

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

2:JAHIDUR RAHMAN
S/O ALIM UDDIN
R/O VILL- NIDANPUR PT.II
P.S. LAKHIPUR

DIST. GOALPARA
ASSAM
PIN- 78312

Advocate for the Petitioner : MR. A CHOUDHURY, MS. A KAUSHAR,MR S ISLAM

Advocate for the Respondent : PP, ASSAM, MR. R ISLAM (R-2),N. UDDIN (R-2),MR. M I HUSSAIN (R-2)

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

ORDER

06-11-2024

Heard Mr. A Choudhury, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. N Uddin, learned counsel for the informant/respondent No. 2.

2. By this application filed under Section 482 of the BNSS, 2023, the petitioners, namely, **(i) Gajibor Rahman**, son of Sanowar Ali and **(ii) Majer Ali @ Monser Ali**, son of Anowar Hussain, both resident of village-Nidanpur Pt-II, P.S.-Lakhipur, District-Goalpara, apprehending their arrest, are seeking pre-arrest bail in Lakhipur Police Station Case No. 147/2024 registered under Sections 363/376/506/34 IPC read with Section 4 of the POCSO Act corresponding to G.R. No. 503/2024.

3. As per the FIR of the case dated 24.05.2024 lodged by the informant /respondent No. 2 before the Officer-in-Charge of Lakhipur Police Station, the case is that on 22.05.2024 when his sister in the evening came out of their house when the electricity supply was snapped, the accused petitioner Nos. 1 & 2 forcibly took her in a motorcycle to the first floor of Lakhipur Hospital that was under constructions, where the petitioner No. 1, namely, Gajibor Rahman, committed rape on her. When the minor girl raised hue and cry, the accused petitioners fled away from the scene. Some other persons arrived therein and enquired from her and accordingly informed her family members in her residence. Thereafter, her family members brought her back to her house.

4. As the informant/respondent No. 2 resides at Guwahati and he was informed about the incident, he returned to Lakhipur on 23.05.2024 and lodged the FIR on 24.05.2024.

5. Accordingly, Lakhipur Police Station Case No. 147/2024 corresponding to G.R. No. 503/2024 was registered under Sections 363/376/506/34 IPC read with Section 4 of the POCSO Act.

6. Perused the case diary produced before the Court today by Mr. K K Parashar, learned

Additional Public Prosecutor, Assam.

7. Also perused the statement of the victim girl recorded by the learned Sub-Divisional Judicial Magistrate (Sadar), Goalpara on 27.05.2024 under Section 164 CrpC, her statement recorded under Section 161 CrPC by the concerned Investigating Officer of the case and also her medical report.

8. Also perused the statements of the independent witnesses so far recorded by the concerned I.O. of the case.

9. It is seen from the case diary that police personnel visited the house of the petitioners on various occasions, but they evaded the police.

10. Finding sufficient incriminating materials in the case diary regarding the involvement of the petitioners in the alleged crime, this Court is of the view that it is not a fit case to grant the benefit of pre-arrest bail to the petitioners, named above, in said Lakhipur Police Station Case No. 147/2024.

11. Accordingly, this pre-arrest bail application of the petitioners, namely, **(i) Gajibor Rahman** and **(ii) Majer Ali @ Monser Ali** in said Lakhipur P.S. Case No. 147/2024 stands rejected.

12. Return the Case Diary.

JUDGE

Comparing Assistant