

GAHC010144252024



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

Case No. : AB/1914/2024

ABDUS SALAM AND ANR.
S/O LATE AKKASH ALI
R/O VILL- BATUWA
P.O. SARUPETA
P.S. PATACHARKUCHI
DIST. BAJALI, ASSAM

2: HAJERA BEGUM
W/O AKTAR ALI
R/O VILL- BATUWA
P.O. SARUPETA
P.S. PATACHARKUCHI
DIST. BAJALI
ASSA

VERSUS

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

2:RABINA KHATUN
W/O ISMAIL UDDIN
VILL- BATUA
P.S. PATACHARKUCHI
DIST. BAJALI
ASSAM
PIN-78132

Advocate for the Petitioner : MR. N K KALITA,

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 29.08.2024

Heard Mr. N.K.Kalita, learned counsel for the petitioners. Also heard Mr. R.J.Baruah, learned Additional Public Prosecutor for the State.

This is an application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), praying for grant of pre-arrest bail to the accused/petitioners, namely, **1. Abdus Salam** and **2. Hajera Begum** who are apprehending arrest in connection with **Patacharkuchi P.S. Case No. 140/2024 (GR No. 209/2024)**, under Section 96 of the Bharatiya Nayaya Sanhita, 2023 read with Section 8 of POCSO Act.

The Case diary, as called for, is placed before the Court.

Learned counsel for the petitioners submits that the petitioner No. 1 is a Government employee presently working as Assistant Teacher of Batuwa M.E. Madrassa and petitioner No. 2 is the neighbour of the informant as well as the petitioner No.1. As per FIR, the petitioner No. 1 had love affairs with the victim girl and she had eloped with the petitioner No. 1. When the family members of the victim came to know about their relationship, they started to torture her and threatened her to end up their relationship. It is also submitted that there is no allegation in the FIR which falls under Section 8 of POCSO Act and as such, considering the nature of allegation, the benefit of pre-arrest bail may be extended to the petitioners.

The learned Addl.P.P. has produced the case diary and submits that as per statement of the victim recorded under Section 164 CrPC, it reveals that the

petitioner No. 1 tried to remove her clothes. Hence, Section 8 of the POCSO Act may not be attracted in this case.

Having heard the learned counsel for the parties and in the backdrop of facts as emerged from the case diary, this Court finds it not expedient for custodial interrogation of the petitioners.

In view of above, the prayer for anticipatory bail is hereby granted.

Accordingly, it is provided that in the event of arrest of the petitioners, named above, they shall be released on **pre-arrest bail**, in connection with the above noted case on furnishing bail bond of **Rs.30,000/- (Thirty Thousand) each** with one surety each of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 10 days from today failing which, on the 11th day, the anticipatory bail order shall automatically expire;;
- (ii) That the petitioners 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 him/her from disclosing such facts to the Court or to any police officer.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant