

GAHC010145062024



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

Case No. : AB/1888/2024

DILUWAR HUSSAIN
S/O KASHEM ALI, R/O VILL- NAGAYANI, P.O.-KHARUPETIA, P.S.-
KHARUPETIA, DIST- DARRANG (ASSAM), PIN-784115

VERSUS

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

2:MEHEJBIN RESMA ANSARY
D/O JAMAL ANSARY
VILL- GARUAJHAR
P.S.-PANERY
DIST- UDALGURI (BTAD

Advocate for the Petitioner : MR. SK N MOHAMMAD, MR. KHAIRUL ISLAM, MR A
IKBAL, MR. SK S N MOHAMMAD

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 02.08.2024

Heard Mr. Sk. S. N. Mohammad, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for grant of pre-arrest bail, who is apprehending arrest in connection with Kharupetia P.S. Case No. 76/2024, under Section 376(D) of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Mohammad, learned counsel for the petitioner, that the present accused/petitioner is innocent and he has been falsely implicated here in this case. However, he is ready and willing to surrender before the learned Trial Court below within 7 (seven) days from today.

In this context, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against the present accused/petitioner and it also reveals that at the relevant time of incident, the victim disclose her age as 17 years, though till date there is no prayer from the I.O. to add Section of POCSO Act in this case. Accordingly, he vehemently

objected and submitted that it is not at all a fit case to grant with the privilege of pre-arrest bail.

After hearing the submissions made by the learned counsels for both sides, I have also perused the Case Diary and considering the materials available in the Case Diary, I am of the view that the present case is not at all a fit case to extend the privilege of pre-arrest bail or to pass any order on interim protection. However, the present accused/petitioner is at liberty to surrender before the learned Trial Court below.

With the above observation, the present anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant