

GAHC010151102024



2024:GAU-AS:12761

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

Case No. : AB/2006/2024

BELLAL HUSSAIN @ BELLAL ALI
S/O JOYNAL ABEDIN @ JONAB ALI
R/O VILL- UTTAR MORAGADADHAR, P.S. AGOMONI
DIST. DHUBRI, ASSAM

VERSUS

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

2:SILIMA KHATUN
D/O SHER ALI
R/O VILL- TARANGAPUR (NOW BHAISA KHARUVAZ
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN-78313

Advocate for the Petitioner : MR. L R MAZUMDER, MR. A ISLAM

Advocate for the Respondent : PP, ASSAM,

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

ORDER

16.12.2024

Heard Mr. L R Mazumdar, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State.

2. The petitioner, namely, **Bellal Hussain @ Bellal Ali**, son of Joynal Abedin @ Jonab Ali, resident of village Uttar Moragadadhar, P.S. Agomoni, District-Dhubri, has filed this pre-arrest bail application under Section 482 BNSS, 2023, apprehending his arrest in **Agomoni Police Station Case No. 163/2020** registered under Sections 420/406/366A/376DA/506 of the IPC read with Section 6 of POCSO Act, 2012 corresponding to G.R. No.2484/2020.

3. The petitioner herein is an FIR named accused in said Agomoni P.S. Case No. 163/2020.

4. Section 438 Cr.P.C. relates to "Direction for grant of bail to person apprehending arrest" and Section 438(4) Cr.P.C. provides that – *Nothing in this Section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of Section 376 or Section 376AB or Section 376DA or Section 376DA of the Indian Penal Code (45 of 1860).*

5. Section 438(4) of Cr.P.C. is equivalent to Section 482(4) of BNS, 2023.

6. Section 482 of the BNSS, 2023 provides for "Direction for grant of bail to person apprehending arrest" and Section 482(4) BNSS stipulates that – *Nothing in this Section shall apply to any case involving the arrest of any person on accusation of having committed an offence under Section 65 and Sub-Section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023.*

7. Section 376 IPC is equivalent to Section 65 of BNS, 2023.

8. Said Bhuragaon P.S. Case No. 88/2024 against the petitioner No. 1 relates to Section 376 AB of IPC.

9. As such, this pre-arrest bail application of the petitioner, namely, **Bellal Hussain @ Bellal Ali**, son of Joynal Abedin @ Jonab Ali, in said **Agomoni P.S. Case No. 163/2020**, being not maintainable, stands rejected.

JUDGE

Comparing Assistant