

GAHC010154462024



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

Case No. : AB/2016/2024

AZAHAR ALI
S/O LATE MOHEZ ALI
R/O LOTORIADIA
P.O MAHTOLI
P.S. BOKO
DIST. KAMRUP, ASSAM
MOB. NO. 9864027090
PIN-781136

VERSUS

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

2:TAIZUDDIN AHMED
S/O LATE SHOMEJ UDDIN
R/O LOTORIADIA
P.O. MAHTOLI
P.S. BOKO
DIST. KAMRUP
ASSAM
PIN-78113

Advocate for the Petitioner : MR A K AHMED, MS P KAKATI

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 19.08.2024

Heard Mr. A.K. Ahmed, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State of Assam.

2. By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, namely, **Azahar Ali**, has prayed for granting pre-arrest bail, apprehending arrest in connection with **Boko P.S. Case No. 331/2024** under Section 376(n)/506 IPC r/w Section 6 of POCSO Act, 2012.

3. The learned counsel for the petitioner submits that the present petitioner is the father of the accused No. 1 as per FIR and there is no allegation against the present petitioner in the FIR which falls under the provision of IPC or POCSO Act. As because he is the father of the main accused, he was arrayed as accused in the case. It is also submitted that there is a long pending land dispute between the petitioner and the informant. Considering the allegation against the petitioner, learned counsel for the petitioner prays that the benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand, Mr. Sarma, learned Additional Public Prosecutor for the State has produced the case diary including the statement of the victim recorded under Section 164 Cr.P.C. It is

submitted that the allegation against the present petitioner is that he refused to get his son married with the victim girl and demanded Rs.5,00,000/- as dowry which does not fall under the provision of POCSO Act.

5. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

6. It appears that there is no such allegation against the present petitioner which falls under the category of POCSO Act or under Section 376 IPC. Under such backdrop, this Court finds that custodial interrogation of the petitioner is not required for the purpose of investigation of the case. Therefore, the privilege of pre-arrest bail is granted to the petitioner.

7. Accordingly, it is provided that in the event of arrest of the petitioner, named above, in connection with **Boko P.S. Case No. 331/2024** under Section 376(n)/506 IPC r/w Section 6 of POCSO Act, 2012, he shall be released on furnishing bail bond of **Rs.30,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

8. The direction for pre-arrest bail is subject to the conditions that the petitioner:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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 from disclosing such facts to the Court or to any police officer.

9. The anticipatory bail application stands disposed of.
10. Send back the case diary.

JUDGE

Comparing Assistant