

GAHC010154482024



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

Case No. : AB/1999/2024

SAFIKUL ISLAM @ SHOFIKUL ISLAM
S/O ISMAIL PARAMANIK, RESIDENT OF VILLAGE JAPIA BAROICHOLA, PS
MERERCHAR, DIST BONGAIGAON, ASSAM 783384

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP ASSAM

2:HASMAT ALI
S/O ANAR UDDIN
RESIDENT OF KHAIRABARI
BARPETA ROAD
DIST BARPETA
ASSAM 78131

Advocate for the Petitioner : MR. S A HUSSAIN, G BORO,R BARMAN,MR D J HALOI

Advocate for the Respondent : PP, ASSAM, MR B CHOUDHURY (LEGAL AID COUNSEL FOR R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

23.09.2024

1. Heard learned counsel Mr. S. A. Hussain for the petitioner Safikul Islam @

Shofikul Islam.

2. The petitioner has filed this application under Section 438 of the Cr.PC with prayer for pre-arrest bail as he is apprehending arrest in connection with Special POCSO Case No. 59/2023 arising out of Barpeta P.S. Case No. 188/2023 under Sections 366/376 of the IPC read with Section 4 of POCSO Act.
3. Heard Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State and learned counsel Mr. W. Ahmed on behalf of learned Legal Aid Counsel Mr. B. Choudhury.
4. It is submitted on behalf of the petitioner that the FIR itself reflects that the informant was well aware that the victim was with the petitioner. The FIR was lodged after 6 months, the victim disappeared from her house. It is admitted that both the petitioner and the victim had a love relationship, and the victim eloped with the petitioner on her own volition, and, now a false case has been slammed against the petitioner. The victim was with the petitioner, with the consent of her father for 6 months. The petitioner has been shown as absconder and he is apprehending that he may be forwarded to custody.
5. The learned counsel for the informant has raised objection against the petition. The learned Additional Public Prosecutor has also raised objection stating that the petitioner has not co-operated with the investigation and he is not entitled to pre-arrest bail.

6. I have considered the submissions at the Bar with circumspection.
7. As trial has commenced, I deem it appropriate to direct the petitioner to appear before the learned Trial Court and apply for bail which may be considered by the Court as per merits of the case.
8. In terms of the above observation, bail application stands disposed of.

JUDGE

Comparing Assistant