

GAHC010163792024



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

Case No. : AB/2136/2024

NAJIRUL ISLAM
S/O IDRIS ALI, VILL- KACHARIPARA JUNGLE, P.O. AND P.S.-DALGAON,
PIN-784116, DIST- DARRANG (ASSAM)

VERSUS

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

2:JAMIRAN KHATUN
W/O HABIJ UDDIN
VILL- KACHARIPARA GAON
P.O. AND P.S.-DALGAON
PIN-784116
DIST- DARRANG (ASSAM)

Advocate for the Petitioner : MR. M K HUSSAIN, MS. F H AHMED, MD A RAHMAN, MR. M ALOM, MRS. S Y AHMED

Advocate for the Respondent : PP, ASSAM, MS M DAS (AS LEGAL-AID-COUNSEL FOR R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

10.09.2024

1. Heard learned counsel Mr. M. K. Hussain for the petitioner Najirul Islam.

2. The petitioner has filed this application under Section 482 of the BNSS, 2023 with prayer for pre-arrest bail as he is apprehending arrest in connection with Dalgaon P. S. Case No. 138/2024 under Sections 363/328/376(3)/506 of the IPC read with section 4 of POCSO act and Section 77 of JJ Act.
3. Heard Ms. N. Das, learned Additional Public Prosecutor, Assam for respondent No. 1. Name of the legal Aid Counsel is not reflected in the cause-list but the legal Aid Counsel is present on behalf of respondent No. 2.
4. The allegation against the petitioner is that on 28.06.2024, the accused No. 1 with the help of accused No. 2 committed sexual assault on the minor victim 'X', after she was administered intoxicating substance.
5. I have considered the submissions at the Bar with circumspection. I have scrutinized the Case Diary and the statements of the victim under Section 164 of the Cr.PC.
6. It is submitted on behalf of the petitioner that there are direct allegations against the accused No. 1. The merits of this case are not brought to the fore as investigation is still under progress. It appears that pre-arrest bail may be granted to the accused No. 2.
7. In view of my foregoing discussions, petition is allowed. Meanwhile, in the event of his arrest, the petitioner shall be enlarged on bail of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction

of the arresting authority, under the condition that:

- (i) The petitioner shall appear before the Investigating Officer within 1 (One) week and co-operate with the investigation.

On breach of any of the bail conditions, bail order shall automatically stand cancelled.

- 8. Send back the Case Diary.

JUDGE

Comparing Assistant