

GAHC010166752024



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

Case No. : AB/2171/2024

RAFIUL ISLAM
S/O NOBDALI @ NABED ALI
VILL- BEDLANGMARI
P.O. SILGARA
P.S. KOKRAJHAR
DIST. KOKRAJHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A B SIDDIQUE,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 05-09-2024

Heard Mr. A.B. Siddique, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam appearing for the State respondent.

The present application has been instituted by the petitioner namely, Rafiul Islam praying for grant of pre-arrest bail in connection Kokrajhar P.S. Case No.37/2024 under Sections

354/376/447/294/506/34 IPC.

The petitioner herein along with 3 (three) others were named as accused persons by the informant and a complaint case was instituted by the complainant. The said complaint case came to be registered as Kokrajhar P.S. Case 37/2024. In the said complaint case, it has been noted that the accused No.1 had molested the informant and subsequently the other accused persons including the petitioner herein had arrived at the place of occurrence and had molested the complainant. The said incident was stated to have so occasioned on 01.01.2024. Thereafter, after a lapse of around one month, the complainant had instituted the said complaint, which was subsequently forwarded to Kokrajhar Police Station and leading to the registration of Kokrajhar P.S. Case No.37/2024.

I have perused the materials available on record and also the case diary as produced by Mr. B. Sarma, learned Additional Public Prosecutor.

Mr. B. Sarma, learned Additional Public Prosecutor at the outset has objected to grant interim pre-arrest bail to the petitioner herein and has contended that incriminating materials against the petitioner are found in the case diary.

It is submitted on behalf of petitioner that the complaint was filed by the victim after one month, which clearly reveals that the complaint is an afterthought. Nowhere, it has surfaced that the victim had earlier lodged any FIR under Section 154 CrPC, nor any complaint was made before the SP, but without any such measures, after a month this complaint was filed, which clearly makes this complaint redundant. Thereafter, the victim and the petitioner have settled their dispute amicably.

It is further averred that the informant had one month's time to concoct a false case against the petitioner. The allegations earlier made against the petitioner are that the petitioner used to make explicit remarks to the victim, outraging her modesty. The petitioner then on 01.01.2024, outraged the victim's modesty and disrobed her and the other accused named in the complaint petition also abetted in the commission of such offence. The accused named in the FIR have also defamed the complainant/victim by circulating scandalous remarks against the victim. The victim has also assigned reasons of delay of filing the complaint petition.

I have scrutinized the Case Diary and the complaint petition.

It appears that pre-arrest bail may be granted to the petitioner.

I have considered the submission that the petitioner is willing to cooperate with the investigation and to abide by any stringent conditions, if imposed upon him. The petitioner is a local resident and he

is not a flight risk.

Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/-, with one suitable surety of like amount to the satisfaction of the arresting authority, under the conditions that:-

- i) the petitioner shall appear before the IO within 7 (seven) days from today and cooperate with the investigation and thereafter, the petitioner shall appear before the IO on every fortnight, till completion of investigation,
- ii) the petitioner shall not exercise threats to the victim or other witnesses; and
- iii) the petitioner shall not leave the jurisdiction of the Court, without prior permission.

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

Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant