

GAHC010168232024



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

Case No. : AB/2196/2024

NANDA DAS
S/O LATE UHINI DAS
R/O DASPARA MANKACHAR,
P.S. MANKACHAR,
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN- 783131

VERSUS

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

2:NITYANANDA DAS

S/O LATE UPIN DAS
R/O DASPARA MANKACHAR

P.S. MANKACHAR
DIST.SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

Advocate for the Petitioner : MR R ISLAM, MR. A H MOLLAH,S PAUL,MS. A HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

23/10/2024

Heard Mr. R Islam, learned counsel for the petitioner and Mr. P Borthakur, learned Additional Public Prosecutor, Assam for the State opposite party No. 1. Also heard Ms. Manisha Karen Brown, learned Amicus Curiae appearing on behalf of the informant/opposite party No. 2.

2. It is seen that notice of this pre-arrest bail application was served on the informant/opposite party No. 2 on 12.09.2024, but the informant did not appear in the matter. As such, the Court by order dated 04.10.2024 engaged Ms. Manisha Karen Brown, empanelled Amicus Curiae to appear in the matter on behalf of the informant/opposite party No. 2.

3. The petitioner, namely, **Nanda Das**, son of Late Uhini Das, resident of Daspara Mankachar, P.S. Mankachar, District-South Salmara Mankachar, has filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail apprehending his arrest in Mankachar P.S. Case No. 137/2024 registered under Sections 376 AB/511 of IPC, read with Section 8 of the POCSO Act, 2012 corresponding to G.R. No. 295/2024.

4. As per the FIR of the case dated 21.06.2024 lodged by the informant/opposite party No. 2, on the said date, i.e., on 21.06.2024 in the afternoon around 04:00 PM, when his minor daughter aged about 6 years was playing with her friend in front of the house of the petitioner, he, i.e., the petitioner took the informant's daughter inside his house and tried to commit rape on her and while the petitioner made the attempt, she made hue and cry and at that point of time, others came into the room and it was seen by others, the accused petitioner left the informant's daughter alone. Thereafter, his minor daughter returned home and informed about the incident to the informant. Accordingly, the said FIR of the informant dated 21.06.2024 was registered as Mankachar P.S. Case No. 137/2024 under Sections 376 AB/511 of IPC.

5. It is submitted by Mr. Islam, learned counsel for the petitioner that there is a family dispute between the family of the informant and the petitioner as his wife has given evidence and made statement against the brother of the informant in another criminal case. It is also submitted by the petitioner that the minor daughter of the informant and her friend boarded his E-rickshaw and caused damaged to it for which the petitioner scolded her and dropped her from his E-rickshaw as the said E-rickshaw is his source of income.

6. Perused the case diary placed before the Court today by Mr. Borthakur, learned Additional Public Prosecutor, Assam.
7. The date of birth of the victim is 11.09.2015 and the alleged incident was occurred in the afternoon of 21.06.2024.
8. It is seen from the case diary that the minor victim is consistent in her statement recorded under Section 181 of BNSS by police as well as in her statement recorded under Section 184 of BNSS by the learned Judicial Magistrate, 1st Class, South Salmara Mankachar on 24.06.2024 in which the victim indicated that while she was playing with her friend sitting in the E-rickshaw of the accused petitioner, he called her inside his room and tried to opened her undergarments by laying her in his bed and while she made hue and cry, her friend came inside the room and at that point of time, the accused petitioner left her.
9. It is also seen from the statement of the friend of the victim recorded by police under Section 181 of BNSS, who is also a minor that the said minor friend of the victim also implicated the petitioner about the said incident.
10. It is seen that from the date of the incident, the accused petitioner is evading arrest being away from his home.
11. Considering such incriminating materials in the case diary against the petitioner with regard to his involvement in the alleged crime, the Court is of the view that it is not a fit case to grant pre-arrest bail to the petitioner, namely, **Nanda Das** in said Mankachar P.S. Case No. 137/2024.
12. Accordingly, this pre-arrest bail application of the petitioner, named above, in said Mankachar P.S. Case No. 137/2024 stands rejected.
13. Return the case diary.

JUDGE

Comparing Assistant