

GAHC010168492024



2024:GAU-AS:12195

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

Case No. : AB/2199/2024

AMIR HUSSAIN
S/O- HABIJ UDDIN
VILL- SANTIPUR LELAIBORI
P.S. LAHARIGHAT
DIST. MORIGAON, ASSAM

VERSUS

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

2:RUKIA KHATUN
W/O OSMAN ALI
R/O VILL- NAGABANDA (NIGAM)
P.S. LAHARIGHAT
P.O. NAGABANDA
DIST. MORIGAON
ASSAM
PIN-78210

Advocate for the Petitioner : MR. J AHMED, MS A HUSSAIN,R BEGUM,H G DAISY

Advocate for the Respondent : PP, ASSAM, MS. K PHUKAN (LEGAL AID COUNSEL FOR R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

03.12.2024

1. Heard Mr. J. Ahmed, learned counsel for the petitioner Amir Hussain.
2. The petitioner has filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as he is apprehending arrest in connection with POCSO Case No. 51/2024 arising out of Laharighat P.S. Case No. 05/2024 under Sections 376D/506 of the IPC read with Section 6 of the POCSO Act.
3. Heard Mr. K. K. Das, learned Additional Public Prosecutor, Assam for the respondent State and Ms. K. Phukan, Legal Aid Counsel for the respondent no. 2.
4. I have considered the submissions at the Bar with circumspection.
5. The FIR unfolds that the co-accused including the petitioner named in the FIR took the victim 'X' to a hotel at Morigaon, and maintained physical relationship with her. The victim was only 16 years of age at that time. It was later learnt that the victim was impregnated. She did not inform her parents about the incident as she was terrified. It is submitted on behalf of the petitioner that Charge-sheet has been laid against the petitioner. The petitioner is willing to cooperate with the trial. A false case has been brought up against the petitioner.
6. Learned Additional Public Prosecutor and the learned Legal Aid Counsel have raised serious objection against the bail petition stating that this is a heinous offence and the petitioner is not entitled to pre-arrest bail. There are incriminating materials in the case diary against the petitioner and this is the reason why Charge-sheet has been laid against the petitioner.
7. It is also submitted on behalf of the petitioner that a false and concocted case has been brought up against the petitioner. The co-accused Siddique Ali @

Md Abu Bakkar Siddique has already been granted bail in connection with this case. The prime accused is Taijul Haque and not the present petitioner. The petitioner is highly prejudiced and he does not deserve to be forwarded to custody as a false case has been foisted against him.

8. I have scrutinized the entire case diary and the case record. The merits of this case are not brought to the fore as this case is ready for trial. I have considered the submission that the petitioner is willing to cooperate with the trial.

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

10. Considering all aspects, petition is allowed. Meanwhile, and in the event of his arrest, the petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the Jurisdictional Court/arresting authority under the conditions that:

- (i) The petitioner shall cooperate with the trial,
- (ii) The petitioner shall not exercise threats to the victim or try to influence the witnesses, and
- (iii) The petitioner shall not leave the jurisdiction of the Court without prior permission till completion of trial.

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

12. In terms of the above observation, anticipatory application stands disposed of.

JUDGE

Comparing Assistant