

GAHC010175022024



2024:GAU-AS:11719

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

Case No. : AB/2281/2024

BABULAL LAKRA
S/O BANA LAKRA
R/O KOKRAJHAR BAGICHA, P.O. AND P.S. KOKRAJHAR,
DIST. KOKRAJHAR, (BTAD), ASSAM

VERSUS

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

2:MUNNA EKKA
R/O VILL- THULIDIPA
THULIDIPA TEA ESTATE

KOKRAJHAR
BTAD
ASSAM

PIN-78337

Advocate for the Petitioner : MR P K DAS, MR. M BARUAH

Advocate for the Respondent : PP, ASSAM, MR A N AHMED (R-2)

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

27.11.2024

Heard Mr. P K Das, learned counsel for the petitioner and Mr. B Sarma, learned

Additional Public Prosecutor, Assam for the State.

2) No representation on behalf of the informant/respondent No. 2, though name of his counsel has been reflected in the cause list.

3) By this application filed under Section 482 of the BNSS, 2023, the petitioner, namely, **Babulal Lakra**, son of Bana Lakra, resident of Kokrajhar Bagicha, P.S.-Kokrajhar has prayed for his pre-arrest bail in **Kokrajhar Police Station Case No. 377/2023** corresponding to G.R. No. 784/2023 registered under Sections 448/354(A)(1)(i)/354C/376(3)/511 of the IPC read with Section 8 of the POCSO Act, 2012.

4) As per the FIR dated 08.11.2023, the allegation against the petitioner is that the petitioner, who is a neighbour of the informant, in the morning on 30.10.2023 at around 11 A.M, in the absence of any other persons in the informant's house, tried to commit rape on the minor daughter of the informant, who is only 13 years old, threatening her that he has her obscene photographs in his mobile phone and if she does not listen to him, he will upload her obscene photographs and shall make them viral and then he sexually assaulted her by touching her private parts and various parts of her body.

5) As the minor victim girl objected to such act of the petitioner and made hue and cry, the neighbours of the informant came to the place of occurrence and on seeing the neighbours, the petitioner fled away from the crime scene.

6) It is also stated that the informant's minor daughter is a student of class-VIII studying at a local M.E. School.

7) Accordingly, the said FIR of the informant was registered as Kokrajhar P.S. Case No. 377/2023 corresponding to G.R. No. 784/2023 under Section 448/354(A)(1)(i)/354C/ 376(3)/ 511 of the IPC read with Section 8 of the POCSO Act.

8) Perused the case diary placed before the Court today by Mr. Sarma, learned Additional Public Prosecutor, Assam pertaining to Kokrajhar P.S. Case No. 377/2023.

9) From the case diary, it is seen that the statement of the minor victim girl was recorded by the learned Judicial Magistrate First Class, Kokrajhar under Section 164

Cr.P.C on 14.11.2023 and the concerned Investigating Officer of the case also recorded her statement under Section 161 Cr.P.C. In both of her statements, the minor victim girl categorically implicated the petitioner of sexually assaulting her and of threatening her to upload her obscene photographs.

10) Further, the Investigating Officer of the said case has already collected the Birth Certificate of the minor victim girl and as per the said Birth Certificate, the date of birth of the minor victim girl is 13.11.2009 and at the time of the incident, i.e., on 30.10.2023, she was a minor of 13 years of age.

11) The case diary also reveals that the independent witnesses, who arrived at the place of occurrence immediately on hearing hue and cry of the minor victim girl have also implicated the petitioner, stating that they saw the petitioner coming out from the place of occurrence and fleeing away from it.

12) Finding sufficient incriminating materials 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, **Babulal Lakra**, in said Kokrajhar P.S. Case No. 377/2023.

13) Accordingly, this pre-arrest bail application of the petitioner, named above, in said Kokrajhar P.S. Case No. 377/2023 stands rejected.

14) Return the case diary herewith.

JUDGE

Comparing Assistant