

GAHC010176222024



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

Case No. : AB/2298/2024

EZAZUL HOQUE
S/O BAJLU RAHMAN @ BAJLUL HOQUE, R/O VILL- ROWA PART-III
(HINDURDAIR), P.S.-GAURIPUR, DIST- DHUBRI, ASSAM, PIN-783331

VERSUS

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

2:SHIRAJUL HOQUE
S/O SOBAHAN ALI
R/O VILL- ROWA PART-III (HINDURDAIR)
P.S.-GAURIPUR
DIST- DHUBRI (ASSAM)

Advocate for the Petitioner : M HOSSAIN, MR J HUSSAIN, MD A WADUD

Advocate for the Respondent : PP, ASSAM, MS P DAS, Amicus Curiae(R-2)

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 14.11.2024

Heard Mr. M. Hossain, learned counsel for the petitioner. Also
heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the
State of Assam and Ms. P. Das, learned Amicus Curiae for the

respondent No. 2.

2. By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, namely, **Ezazul Hoque**, has prayed for granting pre-arrest bail, apprehending arrest in connection with **Gauripur P.S. Case No. 213/2024 (GR No. 869/2024)** under Section 70(2), 62 of BNS, 2023 r/w Section 8 of POCSO Act (or Section 10 of POCSO Act).

3. The learned counsel for the petitioner submits that the present petitioner is no way connected with the alleged offence as stated in the FIR. There is a dispute between the family members regarding marriage of the victim with the elder brother of the petitioner for which this false case has been instituted against the petitioner. The petitioner is ready to co-operate with the investigation. Considering the background of the case, learned counsel for the petitioner prays that the benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has produced the case diary including the statement of the victim recorded under Section 164 Cr.P.C. and submits that the statement of the victim does not indicate any offence falls under the provision of POCSO Act.

5. However, Ms. Das, learned counsel for the respondent No. 2 has objected in granting bail to the petitioner.

6. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

7. On perusal of the case diary, it reveals that the victim in her statement recorded under Section 164 Cr.P.C. (183 BNSS) has stated that the petitioner along with other co-accused, forcibly dragged her to the bank of the river and when she raised alarm they fled away from the spot. The statement of the victim does not disclose any offence which falls under the category of Section 8 or 10 of POCSO Act.

8. Under such backdrop, this Court finds that custodial interrogation of the petitioner is not required for the purpose of investigation of the case. Therefore, the privilege of pre-arrest bail is granted to the petitioner.

9. Accordingly, it is provided that in the event of arrest of the petitioner, named above, in connection with **Gauripur P.S. Case No. 213/2024 (GR No. 869/2024)** under Section 70(2), 62 of BNS, 2023 r/w Section 8 of POCSO Act (or Section 10 of POCSO Act), he shall be released on furnishing bail bond of **Rs.30,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

10. The direction for pre-arrest bail is subject to the conditions that the petitioner:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case

so as to dissuade him from disclosing such facts to the Court or to any police officer.

11. The anticipatory bail application stands disposed of.
12. Send back the case diary.

JUDGE

Comparing Assistant