

GAHC010176992024



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

Case No. : AB/2286/2024

OHIDUL SK
S/O SAFIRUDDIN SK.
VILL- DURAMARI
PO.O. SIMBARGAON
DIST.KOKRAJHAR, (BTC), ASSAM
PIN-783379

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MAHMUD, MS. B CHETIA,MS. D BORA,MR. S. SUR,MR S ISLAM,MRS. M SAIKIA,MR S H MAHMUD

Advocate for the Respondent : PP, ASSAM,

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

10.09.2024

- 1.** Heard Mr. M.U. Mahmud, learned counsel for the petitioner. Also heard

Mr. K.K. Parasar, learned Additional Public Prosecutor appearing for the State of Assam.

2. This application under Section 482 of the BNSS, 2023 has been filed by the petitioner, namely, Ohidul Sk, who is apprehending his arrest in connection with Kokrajhar P.S. Case No. 154/2024 under Section 376/448/506 of the Indian Penal Code.

3. The gist of accusation of this case is that on 04.07.2024, the victim woman lodged an FIR before the Superintendent of Police, Kokrajhar, *inter alia*, alleging that on 25.06.2024, when the husband of the victim was not in the house, the petitioner trespassed into her house at about 10:00 PM and after threatening her, forcefully committed sexual intercourse with her.

4. It is also stated in the FIR that after the husband of the victim woman returned home, she reported the incident to her husband, however, the husband assaulted her and drove her out of his home.

5. Mr. M.U. Mahmud, learned counsel for the petitioner has submitted that the petitioner is an innocent person and the allegations levelled against the petitioner in the FIR are not true.

6. The learned counsel for the petitioner has submitted that the petitioner is the son of the person, who had arranged the marriage of the victim with her husband and the victim used to had quarrels with her husband and as a result of which, she has filed a false case against the present petitioner.

7. The learned counsel for the petitioner has also submitted that the petitioner was also called by the In-Charge of Balajan Police Outpost on the report of the first informant regarding the alleged incident. However, he was released from there when the local public went to the Police Outpost and pleaded about the innocence of the present petitioner.

8. The learned counsel for the petitioner has submitted that the petitioner is ready to co-operate in the investigation.

9. On the other hand, the learned Additional Public Prosecutor has produced the case diary of Kokrajhar P.S. Case No. 154/2024 and has vehemently opposed the grant of bail to the petitioner. He submits that there are sufficient materials in the case diary against the present petitioner. He also submits that in her statement recorded under Section 183 of the BNSS, 2023 the victim has vividly described the alleged incident and the manner in which she was subjected to forceful sexual intercourse.

10. The learned Additional Public Prosecutor has submitted that the petitioner may not be granted anticipatory bail in this case.

11. I have considered the submissions made by the learned counsel for both the sides and have gone through the case diary of Kokrajhar P.S. Case No. 154/2024, including the statement of the victim woman recorded under Section 183 of the BNSS. There are sufficient incriminating materials against the petitioner in the case diary and as the offence involved is a heinous offence and the manner in which it was committed has been described vividly by the petitioner on oath before the Judicial Magistrate, 1st Class, Kokrajhar in her statement recorded under Section 183 of the BNSS as well as other materials available in the case diary, this Court is of considered opinion that this is not a fit case where a favourable order under Section 182 of the BNSS may be granted in favour of the present petitioner. In view of the above, the prayer for grant of anticipatory bail to the petitioner is hereby rejected at this stage.

12. Let the case diary be returned back.

JUDGE

Comparing Assistant