

GAHC010177442024



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

Case No. : AB/2293/2024

IKBAL HUSSAIN AND 3 ORS.
S/O ABDUL HAMID
VILL- SONAIBERA
P.S. JURIA
DIST. NAGAON, ASSAM

2: ABDUL HAMID
S/O JAYNAL ABEDIN
VILL- SONAIBERA
P.S. JURIA
DIST. NAGAON
ASSAM

3: MIJANUL HAQUE @ ABDUL MIJANUR
S/O JAYNAL ABEDIN
VILL- SONAIBERA
P.S. JURIA
DIST. NAGAON
ASSAM

4: SADIQUL ISLAM
S/O ABDUL SALAM
VILL- SONAIBERA
P.S. JURIA
DIST. NAGAON
ASSA

VERSUS

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

2: MUSSTT. SABIQUN NAHAR
D/O ALAL UDDIN

VILL- PACHIM MOIRABARI
W/NO. 6

P.S. MOIRABARI
DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR. M ISLAM

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 09.09.2024

1. Heard Mr. N. Uddin, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. This application has been preferred under Section 482 of the BNSS, 2023 by the petitioner, namely (1) Ikbal Hussain, (2) Abdul Hamid, (3) Mijanul Haque @ Abdul Mijanur, and (4) Sadiquul Islam, who are apprehending their arrest in connection with Moirabari P. S. Case No. 125/2024 registered under Sections 318 (4)/316(2)/127(2)/64/77/75 of the BNS, 2023.

3. The gist of the accusation in this case is that on 27.06.2024, the victim lady filed an FIR against the petitioners before the Officer-in-charge of Juria Police Station, *inter-alia*, alleging that on 16.07.2024 the accused No.1 named in the FIR namely, Ikbal Hussain took her from her house to a dhaba, on the pretext of getting court marriage with her and subjected her to sexual intercourse and took naked photos of her and threatened her to publish the same in social media.

4. It is also alleged in the FIR that thereafter the accused No.1 took the victim to the house of other accused persons where the accused No.3 and 4 namely, Abdul Mijanur, and Sadiquul Islam also tried to do bad things with her.

- 5.** Learned counsel for the petitioners has submitted that the victim is a major girl of about 25 years of age.
- 6.** Learned counsel for the petitioners submitted that the victim girl, herself came to the house of the petitioner No.2 i.e. Abdul Hamid to get married with Ikbal Hussain and when he was not found in his residence, she lodged a false complaint against the petitioners.
- 7.** On the other hand, learned Additional Public Prosecutor has produced the case diary of Moirabari P. S. Case No. 125/2024, and has submitted that in her statement recorded under Section 183 BNSS, she has categorically stated that the petitioner No.1, Ikbal Hussain has subjected her to physical relationship and also made her photographs viral in the social media.
- 8.** However, against the other accused persons, she has only implicated her that the other accused persons have assaulted her.
- 9.** I have considered the submissions made by the learned counsel for the petitioners as well as the learned Additional Public Prosecutor, and has gone through the case diary of Moirabari P. S. Case No. 125/2024.
- 10.** On perusal of the case diary, it appears that there are sufficient incriminating materials against the petitioner No.1, Ikbal Hussain, in the case diary, which does not justify grant of anticipatory bail under Section 183 BNSS to him at this date.
- 11.** Hence, the prayer for grant of anticipatory bail to petitioner Ikbal Hussain is hereby rejected.
- 12.** However, as regards other three petitioners are concerned, considering the materials in the case diary, this Court is of considered opinion that their custodian detention may not be necessary if they otherwise cooperate in the investigation.
- 13.** So, in view of above, the above named petitioners, namely, (2) Abdul Hamid, (3) Mijanul Haque @ Abdul Mijanur, and (4) Sadiqul Islam, are hereby directed to

appear before the Investigating Officer of Moirabari P. S. Case No. 125/2024, within a period of 7 days from the date of this order and cooperate in the investigation. So, if they do so, within the stipulated period of time, in the event of their arrest, in connection with Moirabari P. S. Case No. 125/2024, they shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only), each with one surety of like amount to the satisfaction of the arresting authority subject to the following conditions:

i. That the petitioners shall co-operate in the investigation.

ii. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

14. With the above observations, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant