

GAHC010180092024



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

Case No. : AB/2326/2024

MAJIBAR RAHMAN
S/O NABAI SK.
VILL- TILAPARA, P.S. JOGIGHOPA
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN, N. UDDIN, MS. P AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.09.2024

- 1.** Heard Mr. M. I. Hussain, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 482 of the BNSS, 2023, has been filed by the petitioner, namely, *Majibar Rahman*, who is apprehending his arrest in connection with Jogighopa P.S. Case No. 40/2024 under Sections

376/363/342/506/34 of the Indian Penal Code.

3. The gist of accusation is that on 24.02.2024, the victim lady had lodged an FIR before the Officer-in-charge of Jogighopa Police Station, *inter alia*, stating that she is a daily labourer woman working in Milan Brick Industry situated at Dalani Beel at Tilapara. She has alleged that on 14.01.2024 at about 11.30 PM, the petitioner trespassed into her room and committed rape on her against her will. The petitioner also threatened her to kill by keeping dagger on her neck and also did not allow her to come out of her room and kept confined there. It is also stated in the FIR that somehow the victim managed to escape from the Brick Industry on 21.01.2024.

4. The learned counsel for the petitioner has submitted the allegations levelled against the petitioner in the FIR are false. The learned counsel for the petitioner has also submitted that on 01.11.2023, an agreement was reached between the husband of the informant and the petitioner to the effect that he was provided four numbers of labourers for loading purpose to the present petitioner and in lieu of that he received the same on Rs.1,20,000/-.

5. It is submitted by the learned counsel for the petitioner that the informant's husband failed to abide by the agreement and provide the labourers as agreed to by him. It is also submitted that the husband of the informant also did not return back the money to the petitioner and, therefore, the husband of the petitioner has used his wife to lodge a false complaint against the present petitioner.

6. On the other hand, learned Additional Public Prosecutor has vehemently opposed the grant of bail to the present petitioner on the grounds that the victim has implicated the present petitioner in her statement

recorded under Section 164 of the Code of Criminal Procedure and considering the nature of the offence involved, he submits that the prayer for bail should be rejected.

7. I have considered the submissions made by the learned counsel for both the sides and have perused the case diary which was called for in connection with this.

8. On perusal of the statement of the victim, it appears that she has categorically implicated the petitioner of having committed forceful sexual intercourse with her in the absence of her husband. It also appears that the Investigating Officer has recorded the statement of some other independent witnesses who have also made an incriminating statement against the present petitioner.

9. Considering the nature of the offence involved in this case, as well as the incriminating materials available against the present petitioner in the case diary, this Court is not inclined to grant bail to the petitioner at this stage. Hence, the prayer for grant of anticipatory bail is rejected.

10. This anticipatory bail application is disposed of.

11. Send back the case diary.

JUDGE

Comparing Assistant