

GAHC010182932023



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

Case No. : AB/2889/2023

ABDUL LATIF AHMED
S/O AMNANAULLAH SK.
R/O VILL- BHIMAPARA
P.S. SOUTH SALMARA
DIST.SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

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

2:MD. MUSTAFIJIR RAHMAN
MANAGING DIRECTOR
GYAN VIKASH ACADEMY
HATSINGIMAR

Advocate for the Petitioner : MR Z KAMAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 07.02.2024

Heard Mr. F. Haque, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with South Salmara P.S. Case No. 217/2023, under Sections 376/354 of the IPC, read with Sections 4/7/8/9/21 of the POCSO Act, read with Section 67(B) of the IT Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Abdul Latif Ahmed, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Mostafizur Rohman on 21.07.2023. The essence of allegation made in the FIR dated 21.07.2023, is that the accused, namely, Abdul Latif Ahmed who was working in Gyan Vikash Academy, Hatsingimari, as an Assistant Teacher in the Department of Chemistry, on 20.07.2023, some objectionable photographs got viral on social media of the applicant with two girls.

4. Mr. Haque, learned counsel for the applicant submits that some of the interested circle in the institution wherein he was working had conspired against him and no objectionable photographs were recovered from the mobile of the applicant and that the same was hacked by some interested circle of the institution. Mr. Haque further submits that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the application.

5. However, Mr. P.S. Lahkar, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR. Mr. Lahkar further submits that as per the statement of the victim girls recorded under Section 164 Cr.P.C., their age were 18 years at the relevant point of time and the birth certificates of the victim girls have also been seized by the police here in this case and as per the said birth certificates, the date of birth of the victim girls are

15.11.2004 and 29.01.2005, and as such, they were major at the relevant point of time. However, Mr. Lahkar has opposed this application.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. Public Prosecutor.

7. The case diary indicates that the I.O. has seized the birth certificates of both the victim girls and perusal of the same indicates that the date of birth of one of the victim girls is 29.01.2005 and the other is 15.11.2004, and as such, on the date of occurrence, both of them had attained majority.

8. Having considered the nature and gravity of the offence and the punishment prescribed for the same and also considering the submission of learned Advocates of both sides, this Court is inclined to allow this application.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with South Salmara P.S. Case No. 217/2023, under Sections 376/354 of the IPC, read with Sections 4/7/8/9/21 of the POCSO Act, read with Section 67(B) of the IT Act, he shall be released on pre-arrest bail on executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant 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; and
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., South

Salmara, Mankachar, without prior permission.

10. In terms of above, this application stands disposed of.

JUDGE

Comparing Assistant