

GAHC010186422024



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

Case No. : AB/2423/2024

FIRDUS RAHMAN @ FIRDUS BEPARI
S/O LT. SAMSER ALI, VILL- DHARMASALA PT-III, P.S.-DHUBRI, DIST-
DHUBRI, ASSAM, PIN-783335

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M HUSSAIN, MR. A Z AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.09.2024

- 1.** Heard Mr. A. Z. Ahmed, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 482 of the BNSS, 2023, has been filed by the petitioner, namely, *Firdus Rahman @ Firdus Bepari*, apprehending his arrest in connection Dhubri P.S. Case No. 300/2024 under Sections 61(2)(a)/ 70(1)/ 351(3) of the BNS, 2023.

3. The gist of accusation is that on 09.08.2024, the victim lady had lodged an FIR before the Superintendent of Police, Dhubri, *inter alia*, making certain allegations against one Samsul Hoque, who she claims to be her husband and his family members. In the said FIR, she has also alleged that the present petitioner and one Aminur Rahman had tried to forcefully rape her in her rented house but failed in their attempt. She has also made specific allegations against Aminur Rahman of forcefully raping her on 17.07.2024. In the FIR, she has also made allegations that on 04.08.2024, the present petitioner and Aminur Rahman asked her to come to Golakganj for establishing illicit relationship and to make videography of the same on the pretext that they would resolved her matrimonial dispute with her husband i.e., Samsul Hoque.

4. The learned counsel for the petitioner has submitted that the allegations levelled against the petitioner in the FIR are not true. The petitioner never attempted to rape the victim lady. He also submits that earlier also on 08.03.2024, the victim made similar allegations against Samsul Hoque and his family members, where no whisper was made against the present petitioner.

5. The learned counsel for the petitioner has submitted that the petitioner is ready to co-operate in the investigation and prays for allowing him to go on anticipatory bail.

6. On the other hand, learned Additional Public Prosecutor has produced the case diary of Dhubri P.S. Case No. 300/2024 including the statement of the victim woman recorded under Section 164 of the Code of Criminal Procedure. He submits that there are sufficient incriminating materials against the present petitioner in the case diary and the petitioner along with other accused, namely, Aminur Rahman tried to take advantage of the matrimonial dispute of the victim with her husband.

7. I have considered the submissions made by the learned counsel for both the sides and have perused the case diary.

8. On perusal of the case record, it appears that the present petitioner had earlier lodged an FIR on 08.03.2024 against her husband Samsul Hoque and his family members and the incident alleged therein were alleged to have occurred in the year 2023. However, in the instant case, the alleged incident occurred in the month of July and August this year and there are sufficient incriminating materials against the present petitioner in the case diary as well as in the statement of the victim recorded under Section 164 of the Code of Criminal Procedure.

9. In view of the incriminating materials available on record and in view of the stage investigation which is presently pending, this Court is of the considered opinion that this is not a fit case where the benefit of Section 482 of BNSS may be given to the petitioner at this stage, and therefore, his prayer for anticipatory bail is rejected.

10. Send back the case diary.

JUDGE

Comparing Assistant