

GAHC010188192024



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

Case No. : Bail Appln./2761/2024

SANUWAR HUSSAIN
S/O LATE ABDUL ALI, VILL- HELOSAR PAM, P.S.-SARTHEBARI, P.O.-
NOLIGAON, PIN-781352, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M ALI, MR. B BORGOHAIN, MR B SAIKIA, MR. S
NEOG, MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

22.10.2024

Heard the learned counsel Mr. B. Saikia appearing for the petitioner. Also heard Mr. R.R. Kaushik, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Section 483 of the BNSS, 2023 praying for grant of

regular bail to the petitioner, namely- Sanuwar Hussain who was arrested on 31.07.2024 in connection with Sarthebari P.S. Case No.99/2024 under Sections 329(4)/ 64(1)/ 351(2) of BNS, 2023.

3. Mr. Kaushik submits that the case diary has not been received.

4. I have heard the learned counsel of both sides.

5. The petitioner has been in custody for the last 83 days. Therefore, this Court is of the opinion that the bail application deserves to be considered without the case diary.

6. In the year 2023, the petitioner allegedly trespassed into the house of a married woman having her daughter and husband. At that time, the daughter and the husband of the woman was not present in the house. The petitioner forcibly made the woman naked and took some photographs and also had physical relationship with her. The petitioner allegedly threatened her that if she had disclosed the matter to anybody else, her photographs will be uploaded in social media. In that way, the petitioner continued to have physical relationship with her for a long time. She also did not tell the matter to anyone else. On 28.07.2024, while her husband was absent in the house, the petitioner again committed rape upon her. This time, her 14 year old minor daughter saw the incident. The woman has alleged that the petitioner threatened that he will kill the minor girl also. Next day, the woman lodged a type written FIR.

7. Mr. Saikia has submitted that the informant lady was doing illegal business and the present petitioner was protesting against those acts of the woman. According to Mr. Saikia, this false case has been lodged against the present petitioner to take revenge against him.

8. I have considered the submissions made by the learned counsel of both sides.

9. This Court is of the opinion that in this case the period of detention already undergone by the petitioner deserves to be taken as a ground for releasing him on bail. His bail application is allowed.

10. It is hereby directed that the petitioner, namely- Sanuwar Hussain who was arrested

on 31.07.2024 in connection with Sarthebari P.S. Case No.99/2024 under Sections 329(4)/ 64(1)/ 351(2) of BNS, 2023, shall be released on bail of ₹25,000/- with a surety of like amount to the satisfaction of the learned Judicial Magistrate First Class, Barpeta.

The bail application is disposed of accordingly.

JUDGE

Comparing Assistant