

GAHC010189782023



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

Case No. : AB/3006/2023

KIRAMOT SK. @ KERAMOT HUSSAIN
S/O SAHIJAL HOQUE @ SAYJAL HOQUE,
VILL- SOUTH BANGTIMARI
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783135

VERSUS

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

2:SANOWAR ISLAM
S/O MATLEB
VILL- BANGTIMARI
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSA

Advocate for the Petitioner : MR. S U AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

08.02.2024

Heard Mr. S.U. Ahmed, learned counsel for the applicant and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Mankachar P.S. Case No. 266/2023**, under Sections 366[A]/376/342/323/354/34 of the IPC read with Section 4 of the POCSO Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Kiramot Sk. @ Keramot Hussain** for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by one Sanowar Islam, on 24.06.2023. The essence of allegations made in the FIR is that on 12.06.2023, at about 9 pm, while his sister went outside of the house to attend the call of nature, then one Keramot Hussain kidnapped her and taken her to his house and there he committed rape upon her.

4. Mr. Ahmed, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant, vide order dated 28.11.2023, and pursuant to the said order, the applicant had appeared before the IO and has been cooperating with the investigating agency. Mr. Ahmed further submits that the allegations leveled in the FIR are false and that there was an affair between the victim girl and the applicant. Mr. Ahmed also submits that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to make the interim order dated 28.11.2023, absolute in the same terms and conditions.

5. On the other Mr. Sarma, learned Additional Public Prosecutor by producing the case diary before this court, submits that the IO has collected some incriminating materials against the applicant and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It is to be noted here that as the case has been registered under Section 4 of the POCSO Act, notice was issued to the informant/respondent No. 2 and the same was duly served upon the respondent No. 2. But, in spite of receipt of the notice, the respondent No. 2 chooses not to appear before the Court and contest the petition.

8. However, having gone through the record, this Court finds that this Court was pleased to grant interim protection to the applicant, vide order dated 28.11.2023, and pursuant to the said order, the applicant had appeared before the IO and has been cooperating with the investigating agency. Further, it appears from the case diary that the material part of the investigation is almost over and the IO got the statement of the victim girl recorded under Section 164 of the Cr.P.C. and also got the victim girl examined by the Doctor and collected the report and examined other witnesses and there remains to file charge sheet only.

9. In view of above and having considered the submissions of learned counsel for both the parties and also considering the fact that the applicant has been cooperating with the investigating agency, this Court is of the view that

the custodial interrogation of the applicant seems to be unwarranted here in this case. And therefore, this Court is inclined to make the interim order dated **28.11.2023, absolute** in the same terms and condition.

10. In terms of above this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant