

GAHC010197192023



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

Case No. : AB/3043/2023

BOBIDUL ISLAM
S/O SAYED ALI
VILL- MADHUSOULMARI PART-II
(KHASKHAMAR), P.S. GAURIPUR
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

2:JAHIDA BIBI
W/O SAMSUL HOQUE
VILL- MADHUSAULMARI PART-II
(KHASKHAMAR)
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.02.2024

Heard Ms. B. Hazarika, learned counsel for the applicant and also heard Mr. B.

Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Gauripur P.S. Case No.213/2022, under Section 376 IPC, read with Section 4 of the POCSO Act, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Bobidul Islam, 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 Jahida Bibi on 19.04.2022. The essence of allegation made in the aforesaid FIR is that on 18.04.2022 when she was not present in her house, then at about 8:00 p.m. accused Bobidul Islam committed rape upon her minor daughter, namely, Smt. X (name withheld), aged 16 years and threatened her not to disclose the same to her family members, else to face dire consequence.

4. Ms. Hazarika, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail by this Court vide order dated 08.11.2023, and pursuant to the said order, he had appeared before the I.O. and he has been cooperating with the investigating agency and therefore, a contention is being made to make the interim order dated 08.11.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary, but as per his instruction the I.O. has completed investigation and submitted charge-sheet, being Charge-Sheet No.588/2023, dated 27.10.2023, under Section 376 IPC, read with Section 4 of the POCSO Act against the present applicant.

6. In view of the submission of learned Advocates of both sides, this Court is inclined

to dispose of this anticipatory bail application by directing the applicant to appear before the learned Court below on or before 06.03.2024, and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. Till then, interim order dated 08.11.2023, stands extended.

7. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant