

GAHC010200252024



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

Case No. : AB/2591/2024

HABIJUL HOQUE @ HAFIZUR RAHMAN
S/O LATE OMOR ALI, R/O VILL- KATHALDI PART-I, P.O.-BILASIPARA, P.S.-
BILASIPARA, DIST- DHUBRI, ASSAM, PIN-783348

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SANOWAR HUSSAIN
S/O LATE SHAHBUDDIN
R/O VILL- KODOMTOLA PT-I
P.O. AND P.S.-BILASIPARA
DIST- DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR J ISLAM, MR J I MONDAL

Advocate for the Respondent : PP, ASSAM, P BURAGOHAIN (R2),MR S C DAS (R2)

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 12.11.2024

Heard Mr. J.Islam, learned counsel for the petitioner. Also heard Mr. D.P.Goswami, learned Addl. Public Prosecutor for the State/respondent No.1 and

Mr. S.C.Das, learned counsel for the respondent No.2.

By filing this petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS),2023, the petitioner, namely, **Habijul Hoque @ Hafizur Rahman** has prayed for granting pre-arrest bail, apprehending arrest in connection with **Bilasipara P.S. Case No.201/2024** under Sections 365/376 (1)/34 of the IPC r/w Section 6 of POCSO Act.

The allegation in the FIR in brief reveals that on 23.05.2023, while the minor daughter of the informant was going to her hostel, the present petitioner along with other accused persons kidnapped her and forcefully committed rape on her.

The case diary is placed before the court.

It is submitted by the learned counsel for the petitioner that there was love affairs between the petitioner and the victim. Subsequently, the matter in dispute has been settled between the parties that on attaining the age of majority, the petitioner will marry the victim girl. In view of above, the benefit of pre-arrest bail may be extended to the petitioner.

The learned Addl.P.P. has produced the case diary and submits that the victim in her statement recorded under Section 164 CrPC has implicated the petitioner by stating that the petitioner had committed rape on her and as such, learned Addl.P.P. has opposed in granting pre-arrest bail to the petitioner.

Learned counsel for the respondent No.2 has also argued on the same tune that though there was an agreement between the parties but now the petitioner is threatening the victim that he would not marry her and he would kill her.

Having heard the learned counsel for the parties and on perusal of the case

diary, it reveals that there is incriminating materials available in the case diary against the petitioner. The victim has clearly stated that she was sexually abused by the petitioner. The medical report of the victim shows that the hymen of the victim was found torn which suggests commission of sexual assault towards the victim.

Hence, this court is not inclined to grant the privilege of pre-arrest bail to the petitioner.

Accordingly, the pre-arrest bail application stands rejected.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant