

GAHC010200722024



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

Case No. : Bail Appln./2934/2024

AMINUR RAHMAN
S/O AKBAR ALI MIAH
VILL- POKALAGI PT.II
P.S. GOLAKGANJ,
DIST. DHUBRI, ASSAM
PIN-783335.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

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

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04.10.2024

1. Heard Mr. A. M. Bora, learned senior counsel assisted by Mr. V. A. Choudhury, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State.

2. This application under Section 483 of the BNSS, 2023 has been made

by the petitioner, namely, Aminur Rahman, who is detained behind the bars since 28.08.2024 (for last 38 days) in connection with Dhubri P. S. Case No.300/2024 under Sections 61(2)(a)/70(1)/351(3) of BNS, 2023.

3. The gist of the accusation in this case is that on 28.08.2024, the victim woman had lodged an FIR before the Superintendent of Police, Dhubri, *inter alia*, alleging that the victim woman was subjected to cruelty both mental and physical by her husband. It is also alleged therein in the FIR that the present along with accused No. 3, namely, Firdus Bepari in the previous FIR also committed forceful sexual intercourse upon the victim, woman.

4. The learned senior counsel for the petitioner has submitted that the allegation made in the FIR does not inspire confidence as the victim has stated that on an earlier occasion, the petitioner tried to rape her, but they failed in their attempt and later on she accompanied them and she was threatened and was subjected to rape by the present petitioner and the accused No. 3 named in the FIR.

5. It is also submitted by the learned senior counsel for the petitioner that the victim woman had earlier also alleged similar offence against other accused persons which were later on compromised by the victim and the said FIR was quashed by the Co-ordinate Bench of this Court by order dated 17.10.2023 passed in Criminal Petition No. 993/2022.

6. The learned senior counsel for the petitioner has submitted that considering the above facts as well as considering the period of detention already undergone by the petitioner, the petitioner may be allowed to go on bail.

7. On the other hand, learned Additional Public Prosecutor has produced the case diary of Dhubri P. S. Case No. 300/2024 and has vehemently opposed the grant of bail to the present petitioner on the ground that there are sufficient incriminating materials against the petitioner on record and considering the nature of offence involved in this case as well as the fact that the offence was committed by putting the victim under threat. He apprehends that the victim may again be subjected to threat if the petitioner is allowed to go on bail.

8. I have considered the submissions made by the learned counsel for both the sides and have also perused the case diary which was requisitioned as well as the statement of the victim woman recorded under Section 164 of the Code of Criminal Procedure.

9. On perusal of the statement of the victim woman recorded during the course of investigation, it appears that she has categorically implicated the present petitioner in the FIR. She has also stated that the petitioner has threatened her in the image if she discloses the offence to anyone else.

10. Considering the nature of incriminating material available against the present petitioner, this Court is of considered opinion that this is not a fit case to grant bail to the present petitioner at this stage of the investigation.

11. The prayer for bail is, therefore, rejected.

12. Send back the case diary.

JUDGE

Comparing Assistant