

GAHC010204312023



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

Case No. : AB/3198/2023

RAHIM KHAN
S/O HAMID KHAN
VILL- DHADUMIA GAON
P.S. TINGKHONG,
DIST. DIBRUGARH, ASSAM

VERSUS

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

2:ALIZA BEGUM
D/O MD. SAMSUL ALI
R/O CHATIANAGURI
GORIA SINGA GAON
P.O. AND P.S. SAPEKHATI
DIST. CHARAIDEW
ASSA

Advocate for the Petitioner : MR P J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

22.04.2024

Heard Mr. B. P. Borah, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

This is an application under Section 438 Cr.P.C. praying for anticipatory bail to the petitioner, Rahim Khan. The petitioner is charge-sheeted as accused in PRC Case No. 185/2023 arising out of Sapekhati PS Case No. 16/2023 under Section 376 IPC. After investigation, the Investigating Authority filed charge-sheet under Section 376 IPC.

Referring to the charge-sheet, the learned counsel for the petitioner submits that admittedly the allegation the petitioner is rape in the pretext of promise to marry her and the petitioner was shown to be absconder in the charge-sheet. The learned counsel for the petitioner referring to an order of this court dated 22.05.2023 submits that there is a love affair between the petitioner and the informant and accordingly, due to misunderstanding FIR was lodged. However, during the proceeding of AB 1243/2023 a compromise was entered between both the accused and informant. Accordingly, the aforesaid bail application was withdrawn.

The learned counsel for the petitioner further referred to the settlement between the petitioner and the informant wherein it has been declared that there was misunderstanding and parties have amicable settled the matter.

In the aforesaid backdrop, this Court called for the statement of the victim girl recorded under Section 164 Cr.P.C. and 161 Cr.P.C. Same has been produced and perused.

The victim girl has specifically implicated the petitioner in committing rape upon her. A specific statement was also made to the effect that though there was a love affair and she eloped with the accused, however, she was unaware that the accused was already married and was having a child.

In view of aforesaid, this Court is not inclined to further continue with the interim order passed earlier on 18.09.2023. Accordingly, same stands vacated and the present application stands dismissed.

JUDGE

Comparing Assistant