

GAHC010210782023



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

Case No. : AB/3250/2023

RABIRAM BASUMATARY
S/O SRI PADMADHAR BASUMATARY,
R/O BAISHNAB PARA, BAGHMARA, P.S.- RUPOHI, P.S.- SALBARI, DIST.-
BAKSA, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

2:SRI NAJIR BORO
S/O- LATE RAI BORO
VILL- BAGHMARA
P.S.- SALBARI
DIST-BAKSA
BTAD
ASSAM
PIN-78132

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 14-03-2024

Heard Mr. NK Kalita, learned counsel for the petitioner as well as Mr. S. Rahman, learned counsel appearing for the respondent no.2 and Mr. RR Kaushik, learned APP for the State.

2. The petitioner, namely, Sri Rabiram Basumatary who is apprehending arrest in connection with Salbari P.S. Case No. 55/2023 under section 368 IPC read with section 6 of POCSO Act, has filed this application under section 438 Cr.P.C., praying for pre-arrest bail.

3. The learned counsel for the petitioner submits that the petitioner is 42 years old married man having 2 children. The informant is the father of the victim and is a resident of the same locality. The petitioner and the informant are also on visiting terms. According to the learned counsel for the petitioner, the petitioner was asked to marry the victim girl. As per the FIR also the petitioner has been maintaining sexual relationship with the victim girl on the pretext of marriage. As the petitioner had refused to marry her, the FIR has been lodged.

4. The learned APP has produced the case diary and submits that the victim has been sexually abused by the petitioner and she is a minor girl. Hence, at this stage the benefit of pre-arrest bail cannot be extended.

5. The learned counsel for the respondent no.2 has also submitted that the petitioner has committed the offence under section 6 of the POCSO Act.

6. I have considered the submission of learned counsel for the parties

and I have also perused the case diary including the statement of the victim girl recorded under section 164 Cr.P.C. wherein she stated that by applying force, she was taken to Rangia by the accused petitioner. During her stay with the petitioner, she has been sexually abused. The victim was examined by the doctor from which it reveals that her hymen was ruptured. Apart from that the victim is a minor girl as per the documents collected by the IO during the investigation.

7. In view of the above, the prayer for anticipatory bail is rejected at this stage.
8. Send back the case diary.
9. Bail application stands disposed of.

JUDGE

Comparing Assistant