

GAHC010211192024



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

Case No. : AB/2730/2024

NEKIBUR RAHMAN @ NAKIB UDDIN AHMED
S/O HAJI ABDUS SATTAR
R/O VILL- DEWAHURI
P.S. LAHARIGHAT
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED, MR. R ALI, MR A AHMED, U U KHAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 21.10.2024

Heard Mr.A Ahmed, learned counsel appearing for the petitioner and Mr. R.R. Kaushik, learned Additional Public Prosecutor appearing for the State of Assam.

2. This is an application under Section 482 of the BNSS, 2023 praying for grant of pre-arrest bail in respect of Laharighat P.S. Case No. 89/2024.

3. One complainant lady had lodged a complaint petition before the court of a Magistrate stating that on 19.02.2024, while she was taking bath by the side of a hand pump, the

petitioner grabbed her from behind and after laying her on the ground, he had committed rape upon her. Police did not register the case. Therefore, the complainant lady had to file the complaint petition before the court of learned Magistrate.

4. The present petitioner filed an Anticipatory Bail Application before the court of the learned Assistant Sessions Judge, Morigaon. In that application, the said complainant woman had filed an affidavit stating that the entire incident took place because of some misunderstanding of facts and the matter was already settled between the parties. However, the learned Assistant Sessions Judge, Morigaon relying upon the statement of the lady recorded u/s 164 of the Cr.P.C. rejected the bail application stating that the offence under Section 376 IPC is a non-compoundable offence.

5. I have considered the submissions made by the learned counsels of both sides in the light of the materials available before me.

6. This Court is of the opinion that the petitioner does not deserve to be detained in custody.

7. Therefore, the pre-arrest bail application of the petitioner is allowed.

8. It is hereby directed that in the event of arrest in connection with Laharighat P.S. Case No. 89/2024, the petitioner Nekibur Rahman @ Nakib Uddin Ahmed shall be released on bail of Rs. 25,000/- to the satisfaction of the arresting authority.

9. The petitioner shall co-operate with the Investigating Officer as and required.

10. With the aforesaid direction, the bail application stands disposed of.

JUDGE

Comparing Assistant