

GAHC010217582024



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

Case No. : AB/2773/2024

RAHUL AMIN AND ANR
S/O JAHER ALI, R/O VILL- RANGAPANI PART-I, P.S.-SAPATGRAM, DIST-
DHUBRI, ASSAM

2: JAHER ALI
S/O LATE ABDUL JABBAR
R/O VILL- RANGAPANI PART-I
P.S.-SAPATGRAM
DIST- DHUBRI
ASSA

VERSUS

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

2:ABDUL BARI SK
S/O LATE SAFARUDDIN AHMED
R/O VILL- RANGAPANI PART-I
P.S.-SAPATGRAM
DIST- DHUBRI
ASSAM
PIN

Advocate for the Petitioner : MR. N ALAM R K, MR. A RAHMAN

Advocate for the Respondent : PP, ASSAM, MR. M MONDAL (R-2)

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 27-11-2024

Heard Mr. A. Rahman, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor appearing for the State and Mr. M. Mondol, learned counsel for the respondent No.2/father of the victim.

This is an application under Section 482 of the BNSS, 2023 praying for grant of pre-arrest bail to the accused/petitioners, namely 1. Rahul Amin 2. Jaher Ali, who are apprehending arrest in connection with Special Case No.304/2023 (arising out of Gauripur P.S. Case No.94/2023) under Section 376 IPC r/w Section 9 PCMA 2006 r/W Sec 4 POCSO Act, r/w Sec 75 JJ Act.

Case diary is received. Perused the same.

It is submitted by the learned counsel for the petitioner that as per the FIR the victim was 17 years of age at the time of her marriage, though she was more than 18 years at the time of her marriage. It is submitted that both the victim and the accused petitioner No. 1 were in love relationship and they eloped and got married and residing as a husband and wife. On 25.10.2024, one child also born out of their wedlock. However, the accused petitioner No.1 and his father were not aware about any institution of any case before the Court and nor police search for them during the investigation of this case. However, it has come to the notice of both the petitioners that charge-sheet has already been filed showing both the accused petitioners as absconder and the summons are already been issued against them. However, there is an apprehension of arrest in connection with this case. Accordingly, both the petitioners have appeared before the Court with a prayer for anticipatory bail. It is submitted by the learned counsel for the petitioners that they are willing to appear before the Court below and to contest the case, if some interim protection is given to both the accused petitioners.

Learned Additional Public Prosecutor has submitted in this regard that both the accused petitioners were shown as absconder in the charge-sheet and the victim was a minor at the time of the incident. However, he submits that the petitioners may be directed to appear before the Court below with an application for bail without any kind of interim protection.

Mr. M. Mondol, learned counsel for the respondent No.2/father of the victim has submitted that both the victim and the accused petitioner No.1 are residing happily as husband and wife and hence he has no objection if both the accused petitioners are granted with the privilege of bail.

I have considered the submissions made by the learned counsel for both the sides and also perused

the scanned copy of the case record,. From the record, it is seen that the case is still at the stage of appearance and the learned Special Judge, POCSO has already issued summons against the petitioners. On the last date i.e. on 23.10.2024, one petition was filed on behalf of the accused petitioners, which was allowed fixing the next date on 22.01.2025.

Considering the materials available in the case record and the submissions made by the learned counsel for both sides, the petitioners are directed to appear before the learned Trial Court with an appropriate application for bail, which may be considered in accordance with law. However, till the next date of listing, the accused petitioners may be protected and no coercive action shall be taken against the petitioners.

Anticipatory bail application is disposed of.

JUDGE

Comparing Assistant