

GAHC010220492024



2024:GAU-AS:12922

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

Case No. : AB/2814/2024

AMIR CHAN @ AMIR CHAN ALI
S/O MEHER ALI
VILL- SONI ROAD, NARIKAL BASTI
P.S. MUKALMUA
DIST. NALBARI,
PIN-781126

VERSUS

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

2:BAREK BHUYAN
S/O SOMIR BHUYAN
VILL- KHOPNIKUCHI

P.S. HAJO
DIST. KAMRUP
ASSAM
PIN-78110

Advocate for the Petitioner : MR. A ROSHID, MS. T BEGUM

Advocate for the Respondent : PP, ASSAM, MR S ISLAM (R-2)

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

18/12/2024

Heard Mr. A Roshid, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. S Islam, learned counsel for the informant/opposite party No. 2.

2. The petitioner, namely, **Amir Chan @ Amir Chan Ali**, son of Meher Ali, resident of Village-Soni Road, Narikal Basti, P.S. Mukalmua, has filed this application under Section 482 BNSS, seeking pre-arrest bail apprehending his arrest in **Hajo P.S. Case No. 386/2024** registered under Sections 140(3)/64 BNS read with Section 4 of POCSO Act.

3. As per the FIR of the case dated 11.10.2024, the petitioner on 10.10.2024 in the evening around 6:00 pm inducing the informant's minor daughter of 17 years that he will marry her and took her away and forcefully made physical relation with her. As such, the informant/opposite party No. 2 lodged the FIR before the Officer-in-Charge of Hajo Police Station to take necessary action in the matter. Accordingly, said FIR was registered as Hajo P.S. Case No. 386/2024 under Sections 140(3)/64 BNS.

4. The petitioner submitted that both the petitioner and the victim girl are having love affair and on three occasions, i.e., in January, 2024, June, 2024 and even on 10.10.2024, she came to the house of the petitioner and stayed with him in his house and that on 11.10.2024, the girl was taken back from his house by the informant with the help of the police personnel.

5. From the statement of the victim girl recorded by the concerned Investigating Officer as well as that of the mother and father of the victim girl, it is seen that on three occasions, the petitioner kidnapped the victim girl in the pretext of marrying her.

6. Perused the case diary placed before the Court today by Mr. Goswami, learned Additional Public Prosecutor, Assam.

7. It is seen from the case diary that the parents of the victim girl have also been threatened by the petitioner if they do not give marriage of their daughter, i.e., the victim girl to him.

8. It is seen that police have seized the original birth certificate of the victim that was registered

as No. 1835/2007 dated 21.05.2010 issued by the Registrar of Births and Deaths, Hajo Public Health Center indicating her date of birth as 19.09.2007. The victim girl indicated that the petitioner after inducing her in the pretext of having love affair and marrying her made physical relation with her forcefully inspite of her objection and resistance on more than one occasions.

9. Considering her date of birth on 19.09.2007 as on January, 2024, the victim girl was of 16 years 4 months, in June, 2024, she was of 16 years 9 months and on 10.10.2024, she was of just 17 years.

10. Case diary also indicates that the petitioner is a married person having a son, however, his wife expired which fact was not known to the victim girl and her parents.

11. The informant has filed an objection petition objecting of granting pre-arrest bail to the petitioner apprehending that if he will be released on bail he will again threaten the informant and his family members including the victim girl and he will take away his daughter.

12. Finding sufficient incriminating materials in the case diary against the petitioner with regard to his involvement in the alleged crime, the Court is of the view that it is not a fit case to grant pre-arrest bail to the petitioner, **Amir Chan @ Amir Chan Ali** in said **Hajo P.S. Case No. 386/2024**.

13. Accordingly, this pre-arrest bail application of the petitioner, named above, in said **Hajo P.S. Case No. 386/2024** stands rejected.

14. Return the case diary.

JUDGE

Comparing Assistant