

GAHC010221612024



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

Case No. : AB/2827/2024

ALOM KHAN @ ALAM KHAN
S/O ABDUL SATTAR KHAN
R/O VILL- BOGURIGURI PATHAR
P.S. SORBHOG,
DIST. BARPETA, ASSAM

VERSUS

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

2:ABIRUDDIN KHAN
S/OMD. MUGAL KHAN
R/O VILL- BOGURIGURI PATHAR

P.S. SORBHOG

DIST. BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MR S C DAS, MR. C. SHIL,P BURAGOHAIN

Advocate for the Respondent : PP, ASSAM, MR. S I TALUKDAR(R-2),MR. A R SIKDAR (R-2)

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

13-11-2024

Heard Mr. S C Das, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2. Apprehending his arrest, the petitioner, namely, **Alom Khan @ Alam Khan**, son of Abdul Sattar Khan, resident of village-Boguriguri Pathar, Sorbhog, District-Barpeta has filed this application under Section 482 of the BNSS, 2023 seeking pre arrest bail in Sorbhog Police Station Case No. 80/2024 registered under Sections 342/448/325/506/34 IPC read with Section 8 of the POCSO Act.

3. The informant/respondent No. 2 on 02.05.2024 filed a complaint before the Court of the learned Chief Judicial Magistrate, Barpeta alleging that the present petitioner along with four others, namely, Sahabul Khan, Munsu Khan, Makku Khan and Badsha Khan at around 2 PM on 13.04.2024 entered his house and assaulted him, in which he sustained fracture in his chest bone. Thereafter, the accused persons forcefully pulled his minor daughter and confined her in his house and locked her there tying her hands and legs. Under the confinement of the accused persons including the present petitioner, the present petitioner sexually assaulted his minor daughter by touching various parts of her body.

4. As the family members of the complainant failed to take her back from the house of the present petitioner, they with the help of the Secretary of the Village Defense Party and police personnel from Sorbhog Police Station recovered his minor daughter and from her they came to know about the sexual assault on her.

5. Since the accused persons threatened the complainant and his family members of dire consequences including burning down their house if they lodge any police case, out of fear they could not file any police case and later filed the said complaint before the Court of the learned CJM, Barpeta.

6. In the said complaint dated 02.05.2024, the complainant also stated that both the complainant and the accused persons are from the same village residing adjacent to each other and also that they are brothers and they have a long pending land dispute.

7. The said complaint was forwarded by the learned CJM, Barpeta for report of police, which was accordingly registered as Sorbhog Police Station Case No. 80/2024 under Sections 342/448/325/506/34 IPC read with Section 8 of the POCSO Act.

8. Mr. Das, learned counsel for the petitioner has submitted that the minor victim girl did not consent for her medical examination and that the other four accused persons of the case have already been released on bail by the learned Additional Sessions Judge cum Special Judge (POCSO), Barpeta on 25.07.2024.

9. Perused the case diary placed before the Court today by Mr. K K Parashar, learned APP, Assam.

10. It is seen that the minor victim in her 164 CrPC statement recorded by the learned Additional Chief Judicial Magistrate, Barpeta on 14.06.2024 implicated the petitioner that he had sexually assaulted her.

11. From the case diary, it is also seen that the independent witnesses including the Village Defense Party Secretary implicated the petitioner with regard to confining the minor victim girl in his house and also about the sexual assault on her by the petitioner as being told by the minor victim.

12. Further, the said Secretary of the Village Defense Party and other independent witnesses in their statements before the concerned Investigating Officer of the case stated that the minor victim girl could be recovered from the house of the petitioner in presence of police personnel from Sorbhog Police Station as well as the said VDP Secretary of the village concerned.

13. Considering such incriminating materials in the case diary regarding the involvement of the petitioner in the alleged crime, this Court is of the view that this is not a fit case to grant the benefit of pre-arrest bail to the petitioner, named above, in said Sorbhog P.S. Case No. 80/2024.

14. Accordingly, this pre-arrest bail application stands rejected.

15. Return the case diary.

JUDGE

Comparing Assistant