

GAHC010229102023



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

Case No. : AB/3525/2023

MD. RITUL ALI
S/O MD. BHABA ALI
R/O VILL- BARKAJULI
P.S. TAMULPUR
PIN-781367
DIST. BAKSA, ASSAM

VERSUS

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

2:SRI GANESH KISKU
S/O SRI LAKHAN KISKU
R/O VILL- RAGAPANI
P.S. TAMULPUR
PIN-781367
DIST. BAKSA
ASSA

Advocate for the Petitioner : MS F BEGUM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 29-01-2024

- 1.** Heard Mr. S. Paul, learned counsel for the petitioner.
- 2.** The petitioner, namely, Md. Ritul Ali has filed this application u/s 438 Cr.PC with prayer of pre-arrest bail as he is apprehending arrest in connection with Tamulpur P.S. Case No. 182/2023 registered u/s 354(A)/376 of the Indian Penal Code, R/W Section 4 of the POCSO Act.
- 3.** Heard Mr. M.P. Goswami, learned Addl. PP, Assam.
- 4.** I have considered the submissions at the Bar.
- 5.** It is admitted by the learned counsel for the petitioner that the petitioner and victim have a love relationship and the victim has eloped with the petitioner. It is submitted on behalf of the petitioner that no case under the POCSO Act is made out as the victim has no allegation of sexual assault on her. It is submitted by the learned counsel for the petitioner that the victim is at present staying with the petitioner.
- 6.** The learned Addl. P.P. has submitted that consent of a minor under 15 years is no consent at all.
- 7.** I have also scrutinised the Case Diary.
- 8.** Investigation is still under progress. At this juncture petition with prayer for bail is rejected.
- 9.** Send back the Case Diary.

JUDGE

Comparing Assistant