

GAHC010232162024



2024:GAU-AS:11180

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

Case No. : AB/2942/2024

ASHRAFUL HOQUE
S/O LATE AKBAR ALI
R/O KACHUAR KHASH PART-I, BORVITA, DHARMASALA
P.S. DHUBRI,
DIST. DHUBRI, ASSAM
PIN-783324

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A I ALI, H KULI

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

18.11.2024

Heard learned counsel, Mr A I Ali, for the petitioner, Ashraful Hoque, who has filed this application under Section 482 of the BNSS, 2023, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Dhubri PS Case No. 0349 of 2024, registered under Sections 140(3)/127(4)/64(1)/351(3)/308(2)/304(2)/3(5) of the BNS,

2023.

2. Heard Ms N Das, learned Additional Public Prosecutor, Assam for the respondent State.

3. The allegation against the petitioner is that on 04.09.2024, at about 09:30 am, when the informant went to Kalarhat Bazar to withdraw money, she was abducted by the petitioner and forcefully taken in a car, the petitioner then committed rape on the informant and recorded video of the offence and threatened to upload the video. Thereafter, the victim was compelled to affix her signatures on papers relating to marriage solemnized between the petitioner and the informant. The petitioner also threatened the informant with dire consequences. On 21.09.2024, informant's family members were able to recover the informant.

4. It is submitted on behalf of the petitioner that Annexure-2 of the petition reflects the date, when the pictures were taken. These pictures were taken on 19.03.2023, which clearly reflects that the victim had an intimate relationship with the petitioner. The WhatsApp messages included in Annexure-3 of the petition also reflects the messages exchanged between both the parties.

5. It is submitted that Annexure-5 is notarized deed of marriage between the petitioner and the victim, dated 06.09.2024, which belies the informant's allegation that she was confined from 04.09.2024 till 21.09.2024.

6. Learned Additional Public Prosecutor, on the other hand, has raised objection

stating that the statement of the informant recorded under Section 164 CrPC, incriminates the petitioner.

7. I have also scrutinized the Case Diary.

8. Indeed the statement of the informant incriminates the petitioner, but I have also considered the submission of the learned counsel for the petitioner. I find force in the submission of the learned counsel for the petitioner.

9. I have also considered the submission of the learned counsel for the petitioner that the petitioner is willing to cooperate with the remaining part of investigation and is willing to abide by any stringent conditions, if imposed upon him.

10. The petitioner is a local resident and is not a flight risk

11. Considering all aspects, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only), with a suitable surety of like amount to the satisfaction of the arresting authority, under the conditions that:

- i) the petitioner shall refrain from such activities with which he is alleged,
- ii) the petitioner shall not exercise threats to the victim or go anywhere near the vicinity of the victim,
- iii) the petitioner shall appear before the IO within one week and

cooperate with the investigation,

- iv) the petitioner shall appear before the IO on every fortnight, till completion of investigation, and
- v) the petitioner shall not leave the jurisdiction of the Court, without prior permission.

11.1. On breach of any of the bail conditions, bail order shall stand automatically cancelled.

12. Anticipatory Bail Application stands disposed of.

13. Send back the Case Diary.

JUDGE

Comparing Assistant