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

Case No. : AB/3006/2024

ROFIK ALI
S/O MOYNAL HOQUE, R/O BARJANA PART-I, P.O. BORJANA, P.S.
JOGIGHOPA, DISTRICT BONGAIGAON, ASSAM, PIN 783382

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR G CHAMUAH,

Advocate for the Respondent : PP, ASSAM,

Linked Case : Bail Appln./3485/2024

SANOWAR HUSSAIN
S/O JAMSER ALI @ JONGSER ALI
R/O VILLAGE BORJANA
PART-I
P.O. AND P.S. JOGIGHOPA
DISTRICT BONGAIGAON
ASSAM
PIN 783382

VERSUS

THE STATE OF ASSAM
REP BY THE PP

ASSAM

Advocate for : MR G CHAMUAH
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 04.12.2024

Since both the bail applications arise out of the same FIR, both the bail applications are taken up together for disposal by this common order.

2. Heard Mr. G. Chamuah, learned counsel appearing for the petitioners. Also heard Mr.R.R. Kaushik, learned Additional Public Prosecutor for the state of Assam.

3. These two applications are filed under Sections 482 & 483 of the BNSS, 2023 seeking pre-arrest bail, regular bail in respect of Jogighopa P.S. Case No. 153/2024.

4. On 31.08.2024 at about 10 PM, one married woman went out of her house to attend the call of nature and at that time the petitioners, Rofik Ali and Sanowar Hussain attacked her from behind and they committed rape upon her. The petitioners also allegedly threatened the woman that if she says anything about the said fact to police, she would be killed. However, she raised hue and cry over the incident and both the petitioners fled the place of occurrence. After that, some villagers named in the FIR assured the woman that they will give justice to her, but nothing was done. Thereafter, another person Hakim Uddin Akand demanded money from the said woman.

5. Be that as it may, Mr. Kaushik has submitted a WT message sent to him by

police, which stated that in this case, the Charge Sheet No. 148/2024 dated 25.11.2024 has been filed.

6. Mr. Kaushik has submitted that the charge sheet was filed within time. Therefore, the petitioners are not entitled to any relief.

7. Mr. Chamuah, on the other hand submits that on the issue of monetary transaction, the false FIR was lodged. According to Mr. Chamuah, the petitioner Sanowar Hussain has already spent 73 days in judicial custody.

8. Mr. Chamuah further submits that the offence is sessions' triable. Therefore, if the petitioner, Rofik Ali appears before the court of the Judicial Magistrate 1st Class, North Salmara, Abhayapuri, he will be remanded to custody because that court does not have the jurisdiction to entertain the bail application of the petitioner, Rofik Ali.

9. I have considered the submissions made by the learned counsels of both sides.

10. This Court is of the opinion that considering the length of detention undergone by the petitioner, Sanowar Hussain, he does not deserve to be detained in custody. Therefore, the bail application filed by the petitioner, Sanowar Hussain is allowed.

11. It is hereby directed that the petitioner, Sanowar Hussain, who was arrested in connection with Jogighopa P.S. Case No. 153/2024 shall be released on bail of Rs. 20,000/- with a surety of like amount to the satisfaction of the learned Judicial Magistrate 1st Class, North Salmara, Abhayapuri.

12. It is also directed that on appearance of the petitioner, Rofik Ali before the court of the learned Judicial Magistrate 1st Class, North Salmara, Abhayapuri in connection with Jogighopa P.S. Case No. 153/2024, the petitioner, Rofik Ali shall be released on bail of Rs. 20,000/- with a surety of like amount to the satisfaction of the learned Judicial Magistrate 1st Class, North Salmara, Abhayapuri.

13. The petitioner, Rofik Ali is directed to appear before the Investigating Officer as

and when required.

14. With the aforesaid direction, both the bail applications are disposed of.

15. The CD (s) shall be returned.

JUDGE

Comparing Assistant