

GAHC010245472024



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

Case No. : AB/3067/2024

NUR HUSSAIN SHEIKH
S/O LATE AHAD ALI,
RESIDENT OF VILLAGE DHALUAMARI, PO HAZIRHAT, PS SUKCHAR, DIST
SOUTH SALMARA, ASSAM 783128

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. A Z AHMED, MR. A KHALEK

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 13.12.2024

Heard Mr. A.Z. Ahmed, learned counsel appearing for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor for the state of Assam.

2. This an application 482 of the BNSS, 2023, whereby the petitioner has prayed for grant of pre-arrest bail in respect of Sukchar P.S. Case No. 58/2024.

3. One married girl has alleged that the present petitioner, being her father-in-law, had committed rape upon her on 05.09.2023. At that time her husband was not present in the house. Therefore, she informed about the said matter to the family members of her husband in her matrimonial house, but they did not take her to her matrimonial house and instead beat her and drove her out of the house. After three days, the husband of the girl returned home and he was informed about the said incident. Her husband reportedly told her not to disclose the matter to any outsiders and he assured her that he will continue his conjugal life with the girl. Therefore, the victim did not tell anyone about the said incident.

4. However, the present petitioner allegedly attempted to commit rape upon her on many occasions. Therefore, she lodged an FIR before police but, but no case was registered by police. On 29.04.2024, she lodged a complaint before the Superintendent of Police and the thereafter, the complaint was registered by police this time.

5. In her statement recorded u/s 161 of the Cr.P.C. as well as in her statement u/s 183 of the BNS, 2023, she has implicated the present petitioner. Other witnesses are silent about the incident.

6. Mr. Ahmed has submitted that the girl wanted to live in her own house alongwith her husband. Her husband agreed to that because he is the only son of the parents. According to Mr. Ahmed, the complaint was lodged after a long delay of seven months before the court of the learned Chief Judicial Magistrate, SSM, Fikamari and therefore, the learned counsel submits that lodging of the FIR after such inordinate delay should be taken as a ground for releasing the petitioner on bail.

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

8. This Court is of the opinion that the inordinate delay in lodging the FIR should be taken as a ground for allowing the bail application filed by the petitioner.

9. It is hereby directed that in the event of arrest in connection with Sukchar P.S. Case No. 58/2024, the petitioner, Nur Hussain Sheikh shall be released on bail of Rs. 20,000/- with a surety of like amount to the satisfaction of the arresting authority.

10. The petitioner shall appear before the Investigating Officer as and when required. He shall continue to appear before the Investigating Officer as and when called for.

11. With the aforesaid direction, the bail application stands disposed of.
12. CD shall be returned.

JUDGE

Comparing Assistant