

GAHC010252312024



2024:GAU-AS:12950

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

Case No. : AB/3136/2024

MINA RAM GOGOI
S/O DIMBESWAR GOGOI
R/O VILL AND P.O. MOIDOMIA
P.S. NORTH LAKHIMPUR,
DIST. LAKHIMPUR, ASSAM
PIN- 787032

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR M HOQUE, MS J BEGUM

Advocate for the Respondent : PP, ASSAM, MS. P BORAH (INFORMANT),MR. M ALAM (INFORMANT),MR. K BORUAH (INFORMANT)

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

19.12.2024

Heard Mr. M. Hoque, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent and Mr. K. Boruah, learned counsel appearing on behalf of the informant.

This is an application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for the grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with North Lakhimpur P.S. Case No. 330/2024, under Section 75 of the BNS.

The Case Diary has been received, and I have perused the same.

It is submitted by Mr. Hoque, the learned counsel for the petitioner, that the petitioner is innocent and he is no way involved in the alleged offence. However, some false and concocted allegations have been brought against him solely to harass him, as he did not consent to the love relationship between his son and the informant. Furthermore, he submits that the incident occurred on 06.10.2024, but the FIR was registered on 28.10.2024. Moreover, there is no basis to attract Section 75 of the BNS Act, and the petitioner, who is 50 years old, is a school teacher from a reputed family. Thus, he prays for the grant of pre-arrest bail. Further, the petitioner is ready and willing to co-operate with the investigating officer (I.O) in the further investigation of the case, if permitted.

In this regard, Mr. Baruah, the learned Additional Public Prosecutor, has submitted that it is an unfortunate incident in which the informant, who is a friend of the accused/petitioner's daughter, has alleged that she was sexually assaulted and molested by the petitioner. Furthermore, based on the prayer made by the

Investigating Officer (I.O.), subsequently Sections 62 and 64 of the BNSS were added by the learned trial court after examining the victim/informant under Section 183 of the BNSS. Accordingly, he raised objections, stating that this is not a fit case to grant the privilege of pre-arrest bail to the accused/petitioner.

On the other hand, Mr. Boruah, the learned counsel for the informant, has submitted that the informant was a friend of the petitioner's daughter, and from the allegations, it appears that the petitioner sexually assaulted and molested her. He further submits that this is a case where Section 75(2) of the BNS Act attracts against the petitioner and accordingly, he raised objections allowing the petitioner to have the privilege of pre-arrest bail. He also submits that, according to information received, the accused/petitioner had previously committed similar kind of offence, although no formal case has been registered against him.

Considering the submissions made by the learned counsels for both sides, as well as the materials available in the Case Diary and the nature of the allegations, I find that custodial interrogation of the accused/petitioner may be necessary to unearth some more facts of the case. Accordingly, I am of the opinion that this is not a fit case for granting the privilege of pre-arrest bail to the accused/petitioner at this stage. Therefore, the application stands rejected.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant