

GAHC010253352023



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

Case No. : AB/3837/2023

HAZARAT ALI
S/O ABDUL SAMAD @ ABDUS SAMAD
R/O VILL AND P.O. BAGODI
P.S. BARPETA,
DIST. BARPETA, ASSAM

VERSUS

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

2:HELMINA AHMED
D/O HAZARAT ALI
R/O KATHALBURI
P.S. SARTHEBARI

DIST. BARPET

Advocate for the Petitioner : MS. P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 22-01-2024

Heard Ms. P. Bora, learned counsel for the applicant and also heard Ms. A. Begum, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Barpeta P.S. Case No. 440/2023, under Sections 448/506/ 376/ 325/ 324/382/ 34 IPC read with Section 6 of the POCSO Act, this application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Hazarat Ali, for grant of pre-arrest bail.

The above noted case has been registered on the basis of one FIR, lodged by one Helmina Ahmed on 15.09.2023.

The essence of allegation made in the FIR dtd 15.09.2023 is that accused Hazarat Ali has committed rape upon the younger sister of the informant in his house by showing sharp object and having seen the same, while the informant raised objection, then Sirajul Haque, Abdul Samad, Nazima Sikdar and Sahera Begum assaulted her and injured her seriously. The learned counsel for the applicant submits that the applicant is innocent and he has falsely been implicated herein this case and that he is ready to cooperate with the investigating agency and the informant has lodged another FIR on 09.07.2023 against the brother and other two persons and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

On the other hand, Ms. A. Begum, learned Addl. P.P. produced the case diary before this Court and submits that in her statement u/s 164 Cr.P.C, the victim girl has implicated the applicant with the offence alleged in the FIR and therefore, Ms. Begum has opposed the petition.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Addl. P.P.

In view of the materials collected so far in the case diary, specially the

statement of the victim girl recorded u/s 161 as well as 164 Cr.P.C and also considering the medical report of the victim, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant.

Accordingly, the petition stands dismissed.

Case diary be returned.

JUDGE

Comparing Assistant