

GAHC010253442023



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

Case No. : AB/3785/2023

MOSHAROF ALI @ MUZAROF AHMED
S/O SIDDIQUE ALI PRESENT ADDRESS VILL. ALOMGANJ PART VII P.O.
RANGAMAT P.S GAURIPUR DIST. DHUBRI ASSAM PERMANENT ADDRESS
VILL. CHOUTARA P.O. RANGAMATI P.S. GAURIPUR DIST. DHUBRI ASSAM
THE PETIONER BEING MINOR IS REP BY HIS FATHER SIDDIQUE ALI AGE
57 YEARS S/O LT. MOSLEM ALI

VERSUS

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

2:JAMIRON NESA
D/O JABED ALI MONDAL VILL. RANGAMATI PART II P.S GAURIPUR P.O.
RANGAMATI DIST. DHUBRI ASSAM PIN 783339 THE RESPONDENT NO. 2
BEING MINOR MAY BE REP HER FATHER JABED ALI MONDA

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 23-02-2024

Heard Ms. R. Choudhury, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl.P.P. for the State respondent.

Apprehending arrest in connection with Bagribari P.S. Case No.107/2023, under Sections 365 /376 (3) /506 IPC read with Section 4 of the POCSO Act, this application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Mosharof Ali @ Muzarof Ahmed, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR, lodged by one Smt.'X' (name withheld) on 2.9.2023.

The essence of allegation made in the FIR dtd. 2.9.2023 is that on 1.9.2023 at about 8-30 AM, she came to Markaz Academy situated at Panbari, but she was not aware that the school was closed on that day. Then her boy friend Sofiquil Islam alongwith two of his friends namely, Muzarof Ahmed and Raju came there in one Maruti car and asked her to board on the vehicle and told her that they will drop her in her house but, instead of dropping her in her house, they have taken her towards Bagribari and also taken her towards a place, namely, Angarkata and there, Sofiquil Islam committed rape upon her, under threat.

Ms. Choudhury learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he just accompanied the applicant and that no ingredients of the offence under Section 365 IPC is made out here and he is ready to cooperate with the investigating agency and he is also a juvenile and therefore, it is contended to allow the petition.

On the other hand, Mr. Lahkar, learned Addl.P.P. submits that the police has collected some incriminating materials in support of her allegation made in the FIR and therefore, Mr. Lahkar has opposed the petition.

Having heard the submission of learned Advocates of both the parties, I have carefully gone through the petition and the documents placed on record and

also perused the case diary with the assistance of Mr. Lahkar, learned Addl. P.P for the State respondent.

It is to be noted here that notice was issued to the respondent No.2 by registered post and also by usual process and as per office note dated 21.2.2024, notice was served on the respondent, but she chooses not to appear before this Court.

The Case diary indicates that I. O. has collected some materials in support of the allegation made in the FIR. Investigation is going on and at this stage, it cannot be said that custodial interrogation of the applicant is not required, in the interest of investigation,

Accordingly, this Court is inclined to dismiss this petition.

Case diary be returned.

JUDGE

Comparing Assistant