

GAHC010259022023



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

Case No. : AB/3901/2023

MIZANUR RAHMAN
S/O REZZAQUL RAHMAN @ ZAKIR HUSSAIN
VILL- KADAMTOLA PT.II
P.O. AND P.S. BILASIPARA
DIST. DHUBRI, ASSAM
PIN-783348

VERSUS

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

2:SIDDIKA BIBI
W/O HAZRAT ALI
VILL- MASPARA

PO. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

16.02.2024

Heard Mr M U Mondal, learned counsel for the petitioner, Mizanur Rahman.

2. The petitioner has filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Bilasipara PS Case No. 421/2023, under Sections 376(1)/325/34 IPC, read with Section 6 of the POCSO Act.
3. Heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of Assam.
4. The allegation against the petitioner is that he promised to marry the victim, who was 17 years 1 month old, at the time when the FIR was lodged. The petitioner, however, cheated the victim and did not marry her. This case was initiated against the petitioner by the victim's mother.
5. I have considered the submissions at the Bar.
6. I have also scrutinized the Case Diary.
7. It is admitted by the learned counsel for the petitioner that the petitioner and the victim had a love relationship.
8. It is also submitted that this case is not a case of misconception of facts. The victim is also 17 years 11 months old.
9. A perusal of the Case Diary reveals that investigation has progressed to a considerable extent.
10. The petitioner has submitted to abide by any stringent conditions, if imposed upon him. The petitioner is a local resident and he has pledged to cooperate with the

remaining part of investigation.

11. Considering all aspects, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/-, with a suitable surety of the like amount to the satisfaction of the arresting authority, under the conditions that-

- i) the petitioner shall appear before the IO within 10 (ten) days and cooperate with the investigation,
- ii) the petitioner shall refrain from such activities with which he is alleged,
- iii) the petitioner shall not exercise threats to the victim or other witnesses,
- iv) the petitioner shall cooperate with the investigation and if charge sheet is submitted, the petitioner shall cooperate with the trial, and
- v) the petitioner shall not leave the jurisdiction of the Court without prior permission, till completion of trial or investigation.

On breach of any of the bail conditions, the bail order shall stand cancelled.

12. Bail Application stands disposed of.

13. Send back the Case Diary.

JUDGE

Comparing Assistant