

GAHC010264502023



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

Case No. : AB/3992/2023

ABDUL KHALIK
S/O SHRI JABIR ALI
R/O BAZARGHAT, AYLABARI
P.S. KARIMGANJ, DIST. KARIMGANJ, ASSAM, PIN-788733

VERSUS

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

2:SHRI ABDUL MAZID
S/O LATE AYAZ ALI
R/O PRASARPUR
P.S. AND DIST. KARIMGANJ
ASSAM
PIN-78871

Advocate for the Petitioner : MR. I H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 04.01.2024

Heard Mr. P.K.Deka, learned counsel for the petitioner and Mr. B.B.Gogoi. learned
Additional Public Prosecutor for the State.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioner, namely, **Abdul Khalik** in connection with **Karimganj P.S. Case No. 101/2023 (GR Case No. 357/2023)** corresponding to C.R.Case No. 105/2023 , registered under **Sections 366A/376/34** of the IPC r/w Section 6 of POCSO Act.

Scanned copy of LCR is received.

The allegation in the FIR reveals commission of rape by the petitioner along with another co-accused on the minor daughter of informant.

The learned counsel for the petitioner submits that charge-sheet was submitted against the co-accused under Section 366 A/34 of the IPC r/w Section 6 of POCSO Act. As per FIR, there is no allegation against the present petitioner that he was involved in any kind of offence as alleged. The petitioner was sitting behind the vehicle and the co-accused had committed rape on the daughter of the informant. The petitioner was shown as absconder in the charge sheet. Though summons was issued to the petitioner, but as the alleged offence is sessions triable, the petitioner is apprehending arrest and as such, prays for pre-arrest bail.

The learned Addl.P.P. on the other hand opposes the grant of bail to the petitioner.

Considered the submissions of the parties. It appears that the victim is a minor girl and the allegation is against the co-accused who had committed rape on the victim and charge sheet against the present petitioner was submitted under Section 366 IPC. However, considering his apprehension of being arrested in connection with the aforesaid case, the petitioner is directed to surrender before the learned Additional Sessions Judge, Karimganj within 15(fifteen) days from today and file appropriate application and the learned trial court shall consider the same in accordance with law.

With the above directions, pre-arrest bail application is disposed of.

JUDGE

Comparing Assistant