

GAHC010268452024



2024:GAU-AS:12908

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

**Case No. : AB/3331/2024**

MD HARMUJ ALI  
S/O MD. MOINUL HOQUE  
R/O VILL- GADHUWA 1 NO. JHARGAON  
P.S. KALAIGAON  
DIST. UDALGURI, BTAD, ASSAM

VERSUS

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

2:KARIM ALI

S/O LATE ABDUL SEIKH  
VIL- 1 NO. JHARGAON  
P.S. KALAIGAON  
DIST. UDALGURI  
BTAD  
ASSA

**Advocate for the Petitioner** : MR M AHMED, S W HUSSAIN,A. K. KANU,MR A. ALI

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**18-12-2024**

Heard Mr. A. K. Kanu, learned counsel for the petitioner and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

**2.** Apprehending his arrest, the petitioner, namely, **Md. Harmuj Ali**, son of Md. Moinul Hoque, resident of Village-Gadhuwa 1 No. Jhargaon, Police Station-Kalaigaon, District-Udalguri, BTAD has filed this application under Section 482 BNSS seeking pre-arrest bail in **Special (POCSO) Case No. 55/2019** arising out of Kalaigaon P.S. Case No. 73/2018 registered under Sections 448/354(B)/34 IPC read with Section 8 of the POCSO Act, 2012.

**3.** From the Annexures of this pre-arrest bail application, it is seen that in the FIR dated 06.07.2018 lodged by the informant/opposite party No.2 before the Kalaigaon Police Station stating that in the afternoon of 05.07.2018, while he went to the market and his minor daughter, aged about 12 years was alone in the house and when she was cleaning the courtyard around 05:00 pm, the petitioner came from backside and grabbed her from back so as to commit rape on her and when the minor victim girl to save herself from the clutches of the petitioner, made hue and cry, the petitioner forcefully committed rape on her and during this period, the other accused of the case, namely, Md. Julfikar Ali was waiting outside the house of the informant guarding the petitioner. As soon as the other accused Md. Julfikar Ali saw the wife of the informant coming towards her house, said Md. Julfikar Ali indicated the petitioner and both of them fled away from the scene.

4. The said FIR of the informant was accordingly registered as Kalaigaon P.S. Case No. 73/2018 under Sections 448/354(B)/34 IPC read with Section 8 of the POCSO Act, 2012 against the petitioner and one Md. Julfikar Ali.

5. From the Annexures of this pre-arrest bail application, it is also seen that the Special Court took cognizance of the offence and issued summons to both the accused persons of said **Special (POCSO) Case No. 55/2019** arising out of Kalaigaon P.S. Case No. 73/2018. However, the petitioner absconded and did not appear before the Court of learned Special Judge (POCSO), Udalguri and the said **Special (POCSO) Case No. 55/2019** arising out of Kalaigaon P.S. Case No. 73/2018 was filed against him and the proceeding of said Special (P) Case progressed against the other accused person, Md. Julfikar Ali under Section 120(B) IPC read with Section 4 of the POCSO Act, 2012.

6. After considering the evidence adduced by the parties, both prosecution and defence, the learned Special Judge (POCSO), Udalguri by judgment and order dated 12.11.2024 acquitted the other accused person of the case, namely, Md. Julfikar Ali due to lack of evidence against him, but found that there are sufficient evidence against the petitioner, Md. Harmuj Ali in commission of rape upon the minor victim girl.

7. Hence, this pre-arrest bail application.

8. Considering the materials in the charge sheet as well as in the judgment and order dated 12.11.2024 passed by the learned Special Judge (POCSO), Udalguri in said **Special (POCSO) Case No. 55/2019** arising out of Kalaigaon P.S. Case No. 73/2018, this Court is of the view that it is not a fit case to grant pre-arrest bail to the petitioner, **Md. Harmuj Ali** in said **Special (POCSO) Case No. 55/2019** arising out of Kalaigaon P.S. Case No. 73/2018. The

petitioner may approach the appropriate forum for his bail in said Special (POCSO) Case No. 55/2019 as summon in said case has already been issued to the petitioner, as noted above.

**9.** Accordingly, this pre-arrest bail application of the petitioner, **Md. Harmuj Ali** in said **Special (POCSO) Case No. 55/2019** arising out of Kalaigaon P.S. Case No. 73/2018 **stands rejected** for the reasons above.

**JUDGE**

**Comparing Assistant**