

GAHC010271012023



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

Case No. : AB/4084/2023

MOFIDUL ISLAM
S/O FULU DDIN @ FULAR UDDIN
R/O VILL- GOREMARI NO. 2,
P.S. CHIRANG
DIST. CHIRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

11.03.2024

Heard Mr. B. Chowdhury, learned counsel for the applicant and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 of the Code of Criminal Procedure, is preferred by applicant namely, **Mofidul Islam**, who has been apprehending arrest in connection with **Panbari P.S. Case No. 44/2023**, under Sections 417/376 of the IPC, for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one F.I.R., lodged by one Johur Uddin, on 01.07.2023. The essence of allegation made in the FIR is that on 29.06.2023, at about 8 pm, one Mofidul Islam committed rape upon his daughter in the sugarcane field.

4. Mr. Chowdhury, learned counsel for the applicant submits that this is the second anticipatory bail application preferred by the applicant and the earlier one was rejected by this Court, vide order dated 22.08.2023, in AB No. 2533/2023. Mr. Chowdhury further submits the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor submits that he has not received the case diary, but he has the instruction that the I.O. has already completed investigation and laid Charge-Sheet against the applicant, under Section 376 of the IPC, vide Charge-Sheet No. 60/2023, dated 16.02.2024.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record.

7. It appears that the I.O. has already completed investigation and laid Charge-Sheet against the applicant, under Section 376 of the IPC, vide Charge-Sheet No. 60/2023, dated 16.02.2024.

8. Since the case has already been charge sheeted, this court is inclined to dispose of this anticipatory bail application by directing the applicant to appear before the learned **CJM, Chirang** on or before 01.04.2024, and to apply for regular bail and in event of filing such an application, the learned Court below shall consider the same in accordance with law.

9. In the interim, it is provided that in the event of arrest of the applicant

in connection with **Panbari P.S. Case No. 44/2023**, under Sections 417/376 of the IPC, he shall be released on pre-arrest bail on his executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority, till his appearance before the learned Court below on or before 01.04.2024.

10. The above privilege is however subject to the following conditions:-

[i] The applicant shall appear before the court of learned **CJM, Chirang**, on or before 01.04.2024; and

[ii] The applicant shall not leave the jurisdiction of the learned court below without prior permission;

11. In terms of above, this AB stands disposed of.

Comparing Assistant

JUDGE