

GAHC010272252023



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

Case No. : AB/4099/2023

NAZMUL ISLAM
S/O SIRAJ UDDIN, R/O VILL-GERUATI, P.S.-KHATOWAL, DIST-NAGAON,
ASSAM, PIN-782124

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R C DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 11.01.2024

Heard Mr. R.C. Das, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the State.

2. This is the third bail application filed under **Section 438 Cr.P.C.**, praying

for pre-arrest bail by the petitioner, namely, **Nazmul Islam**, who is apprehending arrest in connection with **Khatowal P.S. Case No. 25/2022**, registered **under Sections 341/328/376/506 IPC r/w 66E/67A I.T. Act and r/w Section 25(1-A) Arms Act.**

3. It is submitted by the learned counsel for the petitioner that the instant FIR has been lodged by the informant against the present petitioner. The allegations made in the FIR against the petitioner are totally false and concocted. The petitioner never committed such offence as alleged in the FIR. It is further submitted that the informant is being involved a professional drug business holder by support of police personnel. Considering the background of the case and the nature of the offence, benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has submitted that in the case diary, there is sufficient incriminating materials found against the petitioner. Therefore, pre-arrest bail may not be considered at this stage.

5. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary along with other relevant documents. It reveals from the statement of the victim recorded under Section 164 Cr.P.C. that the petitioner forcefully committed rape on her and after removing her cloths, took several photographs which later on uploaded in the internet. On the other hand, the petitioner has not cited any new ground for moving the instant pre-arrest bail application.

6. In view of above, this Court is of the view that this is not a fit case to grant the privilege of pre-arrest bail to the petitioner. Therefore, the benefit of

pre-arrest bail may not be considered to the petitioner and prayer is **rejected** accordingly. It is directed to the petitioner to surrender before the court of jurisdictional Magistrate.

7. The pre-arrest bail application stands disposed of.
8. Return the case diary.

JUDGE

Comparing Assistant