

GAHC010274642023



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

Case No. : Bail Appln./4451/2023

BABLA BARMAN
SON OF KALIDAS BARMAN, RESIDENT OF RANIBARI NEAR HARI SABHA,
HOUSE NO - 30, PANBAZAR, P.O AND P.S. PANBAZAR, GUWAHATI-1
DISTRICT- KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:SABITA BARMAN
WIFE OF SRI BABLA BARMAN
RESIDENT OF RANIBARI NEAR HARI SABHA
HOUSE NO. 30
PANBAZAR
P.O AND P.S. PANBAZAR
GUWAHATI -1 DISTRICT- KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. M K SARMA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 08.01.2024

1) Heard Mr. M. A. Sarma, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent as well as Ms. S. Phukan, learned counsel for the victim.

2) This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Babla Barman, who has been detained behind the bars since 02.02.2023 in connection with Sessions Case No. 94/2023, pending before the Court of learned Additional Sessions Judge (FTC No.4) , Kamrup (M).

3) The gist of accusation in this case is that on 01.02.2023, the victim of this case had lodged an FIR against the present petitioner who is the husband of the victim/informant, *inter-alia*, alleging that the victim/informant had preferred a case under Section 12 of the Protection of Women From Domestic Violation Act, 2005 and the said case was registered as Misc. Case No. 237/2022 and pending in the Court of learned Judicial Magistrate First Class Kamrup, (M) and by order dated 03.11.2022 learned Judicial Magistrate First Class had passed interim order under Section 18 of the said Act prohibiting the present petitioner from committing any act of domestic violence and certain other directions were issued. However, inspite of the pendency of the said order, on 31.01.2023, the petitioner forcefully entered into the house of the first informant/victim and attempted to commit rape on her.

4) On receipt of the said FIR Pan Bazar P. S. Case No. 23/2023 under

section 448/376/511 was registered and investigation was initiated. Ultimately after completion of investigation, charge sheet was laid against the present petitioner and the present petitioner is now facing trial before the Court of learned Additional Sessions Judge (FTC No.4) , Kamrup (M) in Session case No. 94/2023 under section 448/376/511 of the IPC.

5) Learned counsel for the petitioner has submitted that the petitioner has been detained behind the bars for more than 11 months and in the trial pending against him, the victim has been examined and there is a possibility of re-union of the husband and the wife and further custodial detention would spoil that possibility.

6) Learned counsel appearing for the victim woman has also submitted that considering the fact that there is a possibility of amicable re-union of the husband and wife, the first informant/victim has no objection if the present petitioner is granted bail at this stage.

7) Considering the submissions made by learned counsel for the petitioner as well as learned counsel for the victim, the learned Public Prosecutor does not oppose grant of bail to the present petitioner.

8) I have considered the submissions made by learned counsel for the parties as well as gone through the materials available on record including scanned copy of the case record of Sessions Case No. 94/2023. Considering the fact that the petitioner has been detained behind the bars for more than 11 months as well as considering the fact that the victim has already been examined and the fact that the victim is the wife of the present petitioner and there is a possibility of re-union of the them and further detention of the petitioner may spoil that possibility, this Court is of the considered opinion that further custodial detention of the present petitioner does not appear to be

necessary for fair completion of the trial in Sessions Case No. No. 94/2023 pending before the Court of learned Additional Sessions Judge (FTC No.4) , Kamrup (M).

9) In view of the above, the petitioner, namely, Babla Barman, is hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the Trial Court with the following conditions:

- i. That the petitioner shall continue to appear before the Trial Court on each and every date fixed by the Trial Court; and
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any witnesses or any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case.

With the above observation, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant