

GAHC010276092023



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

Case No. : AB/4140/2023

MINAJUL ISLAM
S/O- TAMIZ UDDIN. VILLAGE- BORJARONI P.S- LANKA DIST - HOJAI,
ASSAM.

VERSUS

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

2:NEPURJAN BEGUM
W/O JAYNAL UDDIN VILLAGE- BORJARONI P.S- LANKA DIST- HOJAI
ASSAM

Advocate for the Petitioner : MR. I A HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13-03-2024

Heard Mr. IA Hazarika, learned counsel for the petitioner as well as Mr. BB Gogoi, learned APP for the State.

2. The petitioner, namely, Minajul Islam who is apprehending arrest

in connection with Lanka P.S. Case No. 520/2023 under section 376 I.P.C. read with section 4 of the POCSO Act, 2012, has filed this application under section 438 Cr.P.C., praying for pre-arrest bail.

3. The learned counsel for the petitioner submits that mother of the petitioner has a grocery shop where the petitioner used to assist his mother when he stays at home. The informant and her daughter used to visit the grocery shop. It is further stated that the informant had given a marriage proposal to the petitioner's mother for marriage of the petitioner with the victim girl. As the petitioner refused to get her married, this FIR has been lodged by the informant alleging the offence of committing rape towards her daughter which is a false allegation against the petitioner. It is also contended that medical report is silent regarding any injury received by the victim on her private parts which belies the offence under section 4 of the POCSO Act.

4. The learned APP submits that there are sufficient incriminating materials against the present petitioner available in the case diary. Hence, it is not a fit case to grant pre-arrest bail to the petitioner.

5. I have considered the submissions made by the learned counsel for the parties and I have also perused the case diary.

6. On perusal of the case diary, it reveals that the victim who is a minor girl has been sexually abused by the petitioner. Medical report shows that the victim was examined by the doctor after 21 days of the incident. However, such factual aspect will be considered during trial.

7. In view of the fact relating to the alleged offence, this Court is not inclined to grant pre-arrest bail to the petitioner. Hence, rejected.
8. Send back the case diary.

JUDGE

Comparing Assistant