

GAHC010278422023



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

Case No. : AB/4160/2023

ISARUDDIN
S/O MAKIM ALI
R/OVILL- FAKIRPARA, P.S. GAROIMARI
DIST. KAMRUP, ASSAM

VERSUS

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

2:SUFIA BIBI
W/O AKKAS ALI
R/O FAKIRPARA
P.S. GAROIMARI
DIST. KAMRUP
ASSA

Advocate for the Petitioner : MR S HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 26.02.2024

Heard Mr. S. Hoque, learned counsel for the petitioner. Also heard
Mr. B.B. Gogoi, 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, **Isaruddin**, who is apprehending arrest in connection with **Garoimari P.S. Case No. 112/2023**, registered **under Sections 376 IPC r/w Section 6 of POCSO Act and r/w Section 66 (E) IT Act/**.

3. It is submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case. It is also submitted that there is a land dispute between the parties as a result of which, this false case has been instituted against the petitioner as nothing has happened what has been stated in the FIR. 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. Gogoi, learned Additional Public Prosecutor for the State has produced the case diary along with the statement of the victim recorded under Section 164 Cr.P.C. He has further submitted that the victim has implicated the present petitioner that he has committed the crime. The medical report also supported the statement of the victim. Under such scenario, 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 on 15.10.2023, the petitioner had accompanied her nearby a temple and the petitioner forcefully committed such offence as alleged in the FIR. The medical report shows that the alleged incident occurred on 15.10.2023 and the victim was examined by the doctor on 30.10.2023 i.e. after 15 days of the incident. On examination of the victim, it was found that- Hymen- Old tears

at 1, 3, 6, 7 9 o' clock position and Vagina- Rugosity-decreased.

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.

7. The pre-arrest bail application stands disposed of.

8. Return the case diary.

JUDGE

Comparing Assistant