

GAHC010280542023



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

Case No. : AB/4191/2023

ASHIDUL FAKIR @ RASHIDUL ISLAM
S/O ABU BAKKAR SIDDIK @ SIDDIK ALI,
VILL.- BALAPARA PART- I, P.O.- SAPATGRAM, P.S.- GOSSAIGAON, DIST.-
KOKRAJHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE P.P., ASSAM.

2:CHAND BANU KHATUN
W/O INSAN ALI

VILL.- RENGNERBHITA
P.O.- TULSHIBIL
P.S.- GOSSAIGAON
DIST.- KOKRAJHAR (BTR)
ASSAM
PIN- 783337

Advocate for the Petitioner : MR. M A MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

13.02.2024

Heard Mr M A Mondal, learned counsel for the petitioner, Ashidul Fakir @

Rashidul Islam.

2. The petitioner has filed this application under Section 438 CrPC, with prayer for bail, apprehending his arrest in connection with Gossaigaon PS Case No. 169/2023, corresponding to GR Case No. 187/2023, under Sections 363/368 IPC, read with Section 4 of the POCSO Act, 2012.

3. Heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of Assam.

4. Notice has been issued to the respondent No. 2. Office Note dated 07.02.2023 indicates that notice has been served on the respondent No. 2. However, the respondent No. 2 is not represented.

5. The allegation against the petitioner is that the petitioner induced the minor victim-‘X’, to go with him and he committed sexual assault on the victim.

6. I have also scrutinized the Case Diary.

7. It is admitted by the learned counsel for the petitioner that there was a love affair between the petitioner and the victim and the victim went with the petitioner on her own volition.

8. A scrutiny of the Case Diary reveals that investigation has progressed to a considerable extent.

9. The petitioner is also 19-years-old.

10. I have considered the age and the antecedent of the petitioner.

11. The petitioner is a local resident and he is not a flight risk.

12. It appears that custodial interrogation may not be required for the progress of investigation. The statement of the victim is also recorded under Section 164 CrPC.

13. Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/- with a suitable surety of the like amount to the satisfaction of the arresting authority under the conditions that:-

- i) the petitioner shall appear before the IO within 10 (ten) days and cooperate with the investigation, and
- ii) the petitioner shall not exercise threats to the witnesses.

On breach of the aforesaid bail condition, the bail order shall stand cancelled.

14. Bail Application stands disposed of.

15. Send back the Case Diary.

JUDGE

Comparing Assistant