

GAHC010281912023



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

Case No. : AB/4213/2023

MD RASHIDUL ISLAM @ RASIDUL ISLAM
S/O HAJRAT ALI
R/O VILL- BAGALIPARA
P.S.LAHARIGHAT
DIST. NAGAON, ASSAM

VERSUS

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

2:MUSSTT. AZUFA
W/O FARJUL ISLAM
R/O VILL- BAGALIPARA
P.S. LAHARIGHAT

DIST. NAGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR J C BORAH
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

24.04.2024

Heard Mr. J. C. Borah, learned counsel for the petitioner. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor appearing for the State

respondent No.1. Though the name of the respondent No.2 is reflected in the cause list but none has appeared.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioners, namely, **Md. Rashidul Islam @ Rasidul Islam** in connection with **Laharighat PS Case No. 238/2023**, registered under **Section 341/294/354(D) of IPC R/W Section 12 of POCSO Act.**

It is submitted by the learned counsel for the petitioner that there is no mention in the FIR to commit any such sexual assault upon the victim hence, Section 12 of the POCSO Act is not attracted here and the other offences are bailable in nature. It is also submitted by the learned counsel for the petitioner considering the background of the case, benefit of pre-arrest bail may be granted to the petitioner.

On the other hand, Mr. R. R. Kaushik, learned Additional Public Prosecutor has produced the case diary and submits that the victim in her statement recorded under Section 164 Cr.P.C. has implicated the petitioner.

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

Considering the facts as well as the materials available thereon, this Court finds that custodial interrogation of the petitioner is not required for the purpose of investigation of the case. Therefore, he may be granted the privilege of pre-arrest bail.

Accordingly, it is provided that in the event of arrest, the petitioner,

named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 30,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioners:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

The anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant