

GAHC010284502023



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

Case No. : AB/4226/2023

AZINUR RAHMAN
S/O SAMSUL HOQUE,
RESIDENT OF VILLAGE BARKALIA GOLADIGHI, PS FAKIRGANJ, DIST
DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 24.01.2024

Heard Mr. M. Hussain, learned counsel appearing for the petitioner. Also Heard Mr. K. K. Parasar, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely, **Azinur Rahman**, apprehending arrest in connection with **Fakirganj P.S. Case No. 153/2023** registered u/s **341/294/406/376(1)/384/506** of the IPC (G.R. No. 1542/2023).

The Case diary, as called for, is placed before the Court.

The case of the prosecution is that about five years back, the accused petitioner has committed rape by gagging the mouth of the informant/victim from the back side. A case was accordingly registered.

Mr. M. Hussain, learned counsel for the petitioner, submits that the allegations made in the FIR are completely false and has been made only because of some money that was borrowed from the accused petitioner.

Mr. K. K. Parasar, learned Addl. Public Prosecutor, Assam, by referring to the case diary, submits that the statement of the informant/victim has been recorded u/s 164 Cr.P.C. and in that statement, the informant/victim has supported the allegations made in the FIR.

I have considered the submissions made at the Bar and also perused the materials available on record including the case diary.

It appears that the allegation levelled against the accused petitioner is of about five years back. Further, it appears that the investigation is going on and the statement of the informant/victim has already been recorded.

Mr. M. Hussain, learned counsel for the petitioner, has submitted that the accused petitioner is willing to co-operate in the investigation.

Considering the facts and circumstances of the case, this Court is of the opinion that custodial detention of the petitioner may not be necessary in the interest of investigation in the case.

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. 15,000/-** with one surety of like amount to

the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 7 days, failing which on and from the 8th day, this pre-arrest bail order shall have no force; and
- (ii) That the petitioner 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.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant