

GAHC010284632023



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

Case No. : AB/4242/2023

ASHRAFUL ISLAM BHUYAN
S/O LT. FAZAR ALI BHUYAN
R/O VILL- PIRADHARA, PART-I,
P.O. PIRADHARA, P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN-783384

VERSUS

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

2:TAPASH CHANDRA DAS
S/O UNKNOWN
R/O VILL- PIRADHARA
PART-II

P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-783384
PHONE NO. 7664966299
600372626

Advocate for the Petitioner : MR G CHAMUAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 10-01-2024

1. Heard Mr. G. Chamuah, learned counsel for the petitioner *Ashrafal Islam Bhuyan* and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.
2. The petitioner has filed this application under *Section 438* of the *Code of Criminal Procedure* as he is apprehending arrest in connection with *Abhayapuri Police Station Case No. 539/2023* under *Sections 376/506 Indian Penal Code, R/W Section 4 of the POCSO Act and Section 67(A) of IT Act, corresponding to NGR No. 912/2023.*
3. The allegation against the petitioner is that the petitioner sexually assaulted the victim in the year 2020 and thereafter, the recorded video of sexual assault incident was made viral through social media platform. The incident of uploading the obscene video is alleged to have occurred on 09.12.2023.
4. It is submitted on behalf of the petitioner that the incident of sexual assault occurred in the year 2020 but the victim did not lodge any FIR and it is this reason why the petitioner was granted interim bail. The petitioner has also appeared before the Investigating Officer and he has cooperated with the investigation. The petitioner's statement has been recorded.
5. The learned Additional Public Prosecutor has raised objection stating that there are incriminating materials in the case diary against the present petitioner.
6. I have considered the submissions at the bar that the FIR was lodged after three years of the incident but the instant case is relating to uploading the

obscene video in the social media. I have considered the submission that the petitioner who was granted interim bail has appeared before the Investigating Officer and has cooperated with the investigation.

7. A scrutiny of the case diary reveals that the petitioner has cooperated with the investigation which has progressed to a considerable extent.

8. Considering all aspects, interim order dated 22.12.2023 is hereby made absolute.

9. Send back the case diary

10. The interim bail order dated 22.12.2023 is made absolute under the conditions that:

1. *The petitioner shall not go near vicinity of the victim,*
2. *the petitioner shall not exercise threats to the witnesses and tamper with evidence,*
3. *the petitioner shall refrain from such activities with which he is alleged.*

11. On breach of any of the bail conditions, bail order shall stand cancelled.

Anticipatory Bail application stands disposed of in the above terms.

JUDGE

Comparing Assistant