

GAHC010286202023



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

Case No. : AB/4293/2023

NUR SODAGAR @ GUDU MIAH
S/O- MUSADDAR HUSSAIN, R/O- VILL.- KUCHNIMARA, P.O. AND P.S.
MANKACHAR, DIST . SOUTH SALMARA MANKACHAR, ASSAM, PIN-
783131.

VERSUS

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

2:MONJIL HUSSAIN
S/O- BOSORUDDIN
R/O- VILL.- KUCHNIMARA
P.O. AND P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783131

Advocate for the Petitioner : MR. M ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.01.2024

Heard Mr. M. Islam, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1.

None appears for the respondent No.2, though notice was served upon the said respondent through *dasti* mode.

2. This application under Section 438 Cr.P.C. is preferred by applicant, namely, Nur Sodagar @ Gudu Miah, who has been apprehending arrest in connection with Mankachar P.S. Case No.703/2021, under Section 120(B)/354/384/506/34 IPC, read with Section 8 of the POCSO Act, and also read with Section 67 of the Information Technology Act, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Monjil Hussain on 17.08.2023. The essence of allegation made in the aforesaid FIR is that on that day, one Minarul Islam, Shakib Islam and Monowar Islam, who want to marry the daughters of the informant, Sirajul Hoque and Abdul Hanif, namely, X, Y and Z (name withheld), proposed to marry them and as they refused, then they have taken their daughters to Hasina Park located at Rangapani through a tempo and subjected them to sexual harassment and thereafter, took obscene photographs and videos and uploaded the same in the social media and thereafter, they demanded a sum of ₹ 3,00,000/- from them as to make viral of some other photographs and obscene videos.

4. Mr. Islam, learned counsel for the applicant submits that the applicant is innocent and he is no way involved with the offence alleged in the FIR and the allegations made in the FIR are false and one of the co-accused has already been granted bail by this Court in AB No.3573/2023 vide order dated 23.11.2023 and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the applicant and therefore, Mr. Sarma has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant. Though the investigation of the case has progressed significantly, yet, in view of the statement of the victim girls recorded under Section 164 as well as 161 Cr.P.C., this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant at this stage and accordingly, the petition stands dismissed. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant