

GAHC010286802023



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

**Case No. : AB/4266/2023**

FOKRUL ALOM CHOUDHURY @ FOKRUL CHOUDHURY  
S/O RUBUL CHOUDHURY  
R/O VILL- MUKALMUA  
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. R SARMA**

**Advocate for the Respondent : PP, ASSAM**

**:: BEFORE ::**

**HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**O R D E R**

18.01.2024

This is an application under Section 438 of the CrPC in respect of Mukalmua Police Station Case No.579/2023, registered under Sections 363/376 of the Indian Penal Code.

I have heard the learned counsel Mr. R. Sarma appearing for the petitioner. Also heard Mr. P. Borthakur, the learned Addl. Public Prosecutor representing the State of Assam.

The informant Md. Nasir Ali has alleged in the FIR that his 18 years old daughter had gone to the college but did not return home in time. So, he launched a search for her. The informant came to know that at about 7 P.M., the girl was drooped in from of her house by the present petitioner. Then only the informant came to know that his daughter was taken to Nalbari and the petitioner had committed rape upon her in a park at Mukalmua.

In her statement under Section 164 of the CrPC, the girl has claimed to be 18 years old. She has stated that she knew the petitioner for the last two years. She claimed that on 07.12.2023, she had gone to Nalbari with him (the present petitioner) and on that day at about 12.30 P.M., the petitioner had physical relationship with her. The girl has stated that she asked him not to do that but he forcibly made sexual relationship with her. Thereafter, the petitioner dropped her home for solemnization of marriage. But the family members of the petitioner beat her and drove her away. The girl sated before the Magistrate that she was in love with the petitioner.

Police has registered this case under Sections 363/376 of the IPC.

From the statement of the girl that was recorded under Section 164 of the CrPC, it appears that the girl was a consenting party to the act of sexual relationship with the petitioner. Therefore, the petitioner does not deserve to be detained in custody. His pre-arrest bail application is

allowed.

It is hereby directed that in the event of arrest in connection with Mukalmua Police Station Case No.579/2023, registered under Sections 363/376 of the Indian Penal Code, the petitioner Fokrul Alom Choudhury shall be released on bail of ₹20,000/- with a surety of like amount to the satisfaction of the arresting authority.

The application for bail is disposed of.

Return the case diary.

**JUDGE**

**Comparing Assistant**