

GAHC010290202023



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

Case No. : AB/4372/2023

DEV NARAYAN BORAH @ DURLOV NARAYAN BORAH
S/O RUPADHAR BORAH
R/O CHANDAN NAGAR,
WARD NO. 11,
P.O. AND P.S. GOLAGHAT,
DIST. GOLAGHAT, ASSAM

VERSUS

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

2:PRARONA BORDOLOI
D/O LT. INDU KALPA BORDOLOI
R/O WARD NO. 05
STATION ROAD
P.S. AND DIST. GOLAGHAT
ASSAM
PIN-785621

Advocate for the Petitioner : MR. S A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

18.01.2024

Heard Mr S A Ahmed, learned counsel for the petitioner, Sri Dev Narayan Borah @

Durlov Narayan Borah.

2. The petitioner has filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Golaghat PS Case No. 259/2023, under Sections 354/376(3) IPC, read with Section 4 of the POCSO Act, corresponding to GR Case No. 610/2023.
3. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.
4. The learned counsel for the petitioner has submitted that a false case has been foisted against the petitioner. The incident allegedly occurred in the year 2014 and was continuing upto 2019, but the FIR was lodged as late as 27.10.2023. The inexplicable delay in lodging the FIR is unjustified. Although the delay has been explained in the FIR, it is not believable that a case of this nature would be kept in the dark for such a long period for more than 9 years.
5. The learned Additional Public Prosecutor has submitted that there are incriminating materials in the Case Diary, against the petitioner and the petition under Section 376 (3) IPC is also not maintainable.
6. I have considered the submissions at the Bar.
7. I have also perused the Case Diary.
8. There are indeed incriminating materials in the Case Diary, against the petitioner.
9. The import of the section under which the petitioner is booked, does not entitle him

to anticipatory bail.

10. The offence alleged against the petitioner is of serious nature.

11. I have also considered the submission of the learned Additional Public Prosecutor that the FIR itself reveals that the victim was threatened and if the petitioner is granted bail, the other witnesses may hesitate to disclose about the incident.

12. Considering all aspects, it is thereby held that there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioner, at this stage of investigation.

13. Petition with prayer for bail is rejected.

14. Send back the Case Diary.

JUDGE

Comparing Assistant