GAHC010045632026

2026:GAU-AS:11662

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

Case No. : AB/466/2026

ALA UDDIN ALIAS ALOI
S/O ABDUL MANNAN
RESIDENT OF VILL- KALAKHAURI, P.O. ERALIGOOL, P.S. PATHARKANDI,
DIST. SRIBHUMI, ASSAM

VERSUS

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

2:ABDUL KADIR
S/O HARISUDDIN
R/O FORIDKUNA
P.S. PATHARKANDI
DIST. SRIBHUMI
ASSAM

Advocate for the Petitioner : MR. S P CHOUDHURY,

Advocate for the Respondent : PP, ASSAM, MS T PARASHAR

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

17.08.2026

Heard Mr. S.P. Choudhury, learned counsel for the applicant. Also heard Mr. D.P.

Goswami, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1 and Ms. T. Parashar, learned amicus appearing for the respondent No.2.

2. This application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, is preferred by the applicant, namely, Ala Uddin @ Aloi, who has been apprehending arrest in connection with Patharkandi P.S. Case No.42/2025, under Section 87 of the Bharatiya Nyaya Sanhita (BNS), 2023 with added Section 70(2) of BNS read with Section 6 of the POCSO 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 one FIR lodged by one Hazarat Kadir (actual name withheld), on 12.02.2025. The essence of allegation in the FIR dated 12.02.2025 is that on 08.02.2025, at about 9:00 a.m., his minor sister, aged 17 years, namely, Ruksana Khatun (actual name withheld) is found to be missing while she was proceeding to her school, namely, Modoni Markaj Academy, Asimganj.

4. Mr. Choudhury, learned counsel for the applicant, submits that one of the co-accused has already been enlarged on regular bail and that after investigation, charge-sheet has been submitted and as such, custodial interrogation of the applicant may not be warranted in the interest of investigation and that the applicant is ready to face trial and therefore, he has contended to allow the application.

5. Per contra, Mr. Goswami, learned Additional Public Prosecutor, Assam, has vehemently opposed the petition. He submits that after commission of the offence, the applicant has been absconding and he has already been charge-sheeted and shown as absconder, and that the victim girl in her statement under Section 183 BNSS, 2023, has clearly implicated the applicant and the offences are serious in nature and as such, he contends that the privilege of pre-arrest bail may not be extended to him.

6. Ms. Parashar, learned amicus for the respondent No.2 also subscribes the submission of Mr. Goswami, learned Addl. P.P.

7. Having heard the submission of learned counsel for both the parties, this Court has

carefully gone through the petition and the documents placed on record.

8. It appears that the case has been registered under Section 87 of BNS, 2023 with added Section 70(2) of BNS read with Section 6 of the POCSO Act and charge-sheet has been submitted against the present applicant, under Section 127(4)/87/70(2) BNS, read with Section 6 of the POCSO Act along with one Luhab Uddin @ Numan and in the said charge-sheet, he has been shown as absconder. Further, it appears that in the statement of the victim girl recorded under Section 183 of the BNSS, 2023, she has clearly implicated the applicant with the offence alleged in the FIR.

9. It is a fact that the co-accused was arrested by police and he was granted bail by the Court. But, the present applicant is standing in a different footing in as much as he has been absconding since the commission of the offence. Since the charge-sheet has already been submitted and since the offences are serious in nature, 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.

10. And accordingly, this Court is inclined to dispose of this application by directing the applicant to appear before the learned Trial Court and to apply for regular bail within a period of 2(two) weeks from today and in the event of filing such an application, the learned Trial Court shall consider the same in accordance with law.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant