GAHC010151582020

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

Case No. : AB/3035/2020

AZIBAR RAHMAN
S/O. T. SAHED ALI, R/O. KAWOIMARI, 8 NO. BLOCK, P.S. SARTHEBARI,
DIST. BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 08-12-2020

Heard Mr. A. Ahmed, learned counsel for the petitioner. Also Heard Mr. N.K. Kalita, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely **Azibar Rahman** apprehending arrest in connection with **Sarthebari P.S. Case No. 342/2020** registered u/s **448/376** of the IPC.

The Case diary, as called for, is placed before the Court.

Mr. A. Ahmed, learned counsel for the petitioner, submits that the petitioner is falsely implicated in the case as there is ongoing land dispute between his family and the informant's family and in consequence of an incident of altercations with the informant's brother on the previous day of filing of F.I.R.

Mr. N.K. Kalita, learned Addl. Public Prosecutor, submits that the victim girl is major being aged about 28 years and the victim, in her statements u/s 161 and 164 Cr.P.C., has implicated the petitioner, who is her neighbour. Mr. Kalita also submits that the victim is married having an 8 year old son.

The F.I.R. reveals the allegation that on 17.09.2020 at about 1.30 a.m., midnight, the petitioner, who was inside the dwelling house committed sexual intercourse forcibly at knife's point.

The case diary including the statement u/s 164 Cr.P.C. reveals prima facie incriminating evidence against the petitioner. There is no prima facie indication of any form of intimacy between the petitioner and the victim from before the alleged incident, subject, of course, to final outcome in investigation.

Therefore, this Court finds that it is not a fit case to grant the privilege of pre-arrest bail to the petitioner.

Accordingly, the pre-arrest bail application stands dismissed.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant