GAHC010179582026

2026:GAU-AS:15164

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

Case No. : AB/2022/2026

LAL CHAND SIKDAR ALIAS LALCHAN SIKDER
SO LATE MOMORUDDIN SIKDAR, RO VILL CHIRAKUTI CHATAPARA, PS FAKIRGANJ, DIST DHUBRI, ASSAM, PIN 783330

VERSUS

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

2:ASMOT ALI
S/O TAHER ALI
R/O VILL CHIRAKUTI CHATAPARA
PS FAKIRGANJ
DIST DHUBRI
ASSAM
PIN 78333

Advocate for the Petitioner : MR. A F N U MOLLAH, K ZAMAN

Advocate for the Respondent : PP, ASSAM, MS. K BHATTACHARYYA (LEGAL AID COUNSEL FOR R-2)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.10.2026

Heard Mr. A.F.N.U. Mollah, learned counsel for the applicant; and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State, being respondent No. 1; and Ms. K. Bhattacharyya, learned Amicus Curiae for the respondent No. 2.

2. Apprehending arrest in connection with **Fakirganj PS Case No. 72/2026**, under Sections 126(2)/74 of the BNS, read with Section 12 of the POCSO Act, this application under Section 482 of the BNSS, is preferred by applicant, namely, **Lal Chand Sikdar @ Lalchan Sikder**, for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one FIR lodged by one Hanif Ali (actual name withheld), on 16.06.2026.

3.1. The essence of allegation in the FIR, dated 16.06.2026, is that on 15.06.2026, at about 06:30 pm, his minor daughter, Smti 'X" (name withheld), aged 12 years 11 months, was returning from her grandmother's house and then, one Lal Chand Sikdar wrongfully restrained her and outraged her modesty by holding and pressing her breast and when she raised hue and cry, he fled away from the place of occurrence.

4. Mr. Mollah, learned counsel for the applicant, submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he caught hold of victim without any bad intention and at the relevant point of time, there were many people and in presence of such people commission of such an act is impossible. Mr. Mollah further submits that case has been charge-sheeted and the applicant is ready to face trial and will appear before the learned trial court regularly and therefore, it is contended to allow the petition.

5. Per-contra, Mr. Lahkar, learned Additional Public Prosecutor, submits that though the case has been registered under Section 12 of the POCSO Act, yet it ought to have been registered under Section 8 of the POCSO Act. He further submits that after completion of investigation, the IO had submitted charge-sheet, under Sections 126(2)/74 of the BNS and Section 12 of the POCSO Act having found sufficient materials against him and therefore, he has contended to dismiss this petition.

6. On the other hand, Ms. Bhattacharyya, learned Amicus Curiae for the respondent No. 2, submits that having found prima-facie case, the IO had submitted charge-sheet against the present applicant. She further submits that the applicant belongs to the same locality and if he is released on bail, the possibility of influencing the witnesses cannot be ruled out. Under such circumstances, Ms. Bhattacharyya has contended to dismiss this petition.

7. Having heard the submissions of learned Advocates of both sides, this Court has carefully gone through the petition as well as the documents placed on record and also perused the scanned copy of the record received from the learned trial court.

8. It appears that the IO has collected sufficient incriminating materials against the applicant and as submitted by Mr. Lahkar, learned Additional Public Prosecutor, the applicable Section herein this case ought to have been Section 8 of the POCSO Act, instead of Section 12 of the POCSO Act.

9. Further, perusal of the scanned copy of the record, especially the statement of the victim girl, recorded under Section 183 of the BNSS and also the evidences of other witnesses, it cannot be said that no prima-facie case is made out against the applicant.

10. However, in view of the fact that the IO had already completed investigation and submitted charge-sheet against the applicant, this Court is inclined to allow this petition by directing him to appear before the learned trial court on or before

02.11.2026 and to apply for regular bail and in the event of filing such an application, the learned trial court shall consider the same in accordance with law.

11. It is further provided that in the event of arrest of the applicant, in connection with **Fakirganj PS Case No. 72/2026**, under Sections 126(2)/74 of the BNS, read with Section 12 of the POCSO Act, in the interim he shall be enlarged on pre-arrest bail, on his executing a bond of Rs. 20,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

12. The above privilege is, however, subject to the condition that the applicant shall appear before the learned trial court on or before 02.11.2026.

13. In terms of this AB stands disposed of.

JUDGE

Comparing Assistant