GAHC010190162026

2026:GAU-AS:15108

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

Case No. : AB/2107/2026

MITHUN BISWAS,
S/O LATE FAKIR BISWAS, R/O VILL - HATIBHANGI, P.S. - MAYANG, DIST. - MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:ISHAN BISWAS (INFORMANT)
S/O LATE HIRALAL BISWAS R/O VILL - HATIBHANGI
P.S. - MAYANG
PROSECUTOR
DIST. - MORIGAON
ASSA

Advocate for the Petitioner : S K PODDAR, MR. R GHOSH,R MANDAL,MR. C SHARMA

Advocate for the Respondent : PP, ASSAM, MR. S K SAHARIAH (R2),MR D BHATTACHARYA (R-2)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.10.2026

Heard Mr. S. K. Poddar, learned counsel for the applicant and Mr. P. S.

Lahkar, learned Additional Public Prosecutor for the State respondent No. 1. Also heard Mr. S. K. Saharia, learned counsel for the respondent No. 2

2. This application, under Section 482 of the BNSS, 2023, is preferred by the applicant, namely, **Mithun Biswas**, who has been apprehending his arrest in connection with Mayong P.S. Case No. 80/2026, registered under Sections 126(2)/87/351(2)/336(2)/3(5) of the BNS, 2023, read with Section 8 of the POCSO Act, 2012.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by one Mohan Biswas (actual name withheld), on 18.08.2026.

4. The essence of allegation against the applicant in the FIR, dated 18.08.2026, is that on 18.08.2026, accused Mithun Biswas subjected his daughter Smti X (name withheld), aged 17 years, by stopping her on her way to and from college, and repeatedly proposing to have a relationship with him. And in the event of her refusal, he threatened to implicate her family members by consuming poison and by committing suicide. And on 17.08.2026, at about 4 PM, while his daughter was returning home from college, the accused, along with one Rupchand Biswas, stopped his daughter at Hatibhangi embankment and proposed to marry her. And when his daughter declined the proposal, both the accused persons tried to forcefully take her away and also attempted to commit rape upon her. However, when his daughter raised hue and cry, nearby persons came and rescued her.

5. Mr. Poddar, learned counsel for the applicant submits that there was a

relationship between the applicant and the victim and also there was talk of marriage, but because of the age of the victim, the same could not be materialized. He also submits that the matter has now been settled and compromised between the applicant and the victim, and the informant herein has also filed an affidavit to that effect, stating therein that he has no objection in the event of granting bail to the applicant. And under such circumstances, he has contended to allow this application.

6. Per contra, Mr. Lahkar, learned APP for the respondent No. 1, by producing the case diary before this Court, submits that the victim, in her statement under Section 183 of the BNSS, 2023, has implicated the applicant and that investigation is going on and therefore, he has contended to dismiss this application.

7. On the other hand, Mr. Saharia, learned counsel for the respondent No. 2, submits that the informant has no objection in the event of granting pre-arrest bail to the applicant and to that effect, he has filed one affidavit, dated 05.10.2026

8. Having heard the submissions of the learned counsel for both the parties, this Court has carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of the learned Additional Public Prosecutor.

9. Considering the materials collected so far in the case diary and the progress of the investigation, and further considering the affidavit filed by the informant/respondent No. 2, and the submission of the learned counsel for both

the parties; this Court is of the view that custodial interrogation of the applicant is not warranted in the interest of investigation. And accordingly, this Court is inclined to allow this application.

10. It is provided that in the event of arrest of the applicant in connection with Mayong P.S. Case No. 80/2026, registered under Sections 126(2)/87/351(2)/336(2)/3(5) of the BNS, 2023, read with Section 8 of the POCSO Act, 2012; he shall be released on pre-arrest bail, on his executing a bond of Rs. 10,000/- with one surety of like amount, to the satisfaction of the arresting authority.

11. The above privilege is however, subject to the following conditions –

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iii) That the applicant shall not leave the jurisdiction of the learned **Judicial Magistrate First Class**, **Morigaon**, without prior permission.

12. The case diary be returned.

JUDGE

Comparing Assistant