

GAHC010013772019



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

Case No. : AB 179/2019

1:KRISHNA KANTA BHAKAT
S/O LATE SOHENDRA NATH BHAKAT, VILLAGE LOHAJANI, PS
GOLAKGANJ, DIST. DHUBRI (ASSAM), PIN-783334

VERSUS

1:THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 30-04-2019

Heard Mr. HRA Choudhury, learned Senior counsel for the petitioners. Also heard Mr. NJ Dutta, learned Additional Public Prosecutor, Assam.

By this Second anticipatory bail application filed under Section 438 of the Cr.P.C., the petitioner, namely **Krishna Kanta Bhakat** has prayed for pre- arrest bail in connection with **Golakganj P.S. Case No. 264/2017 registered under Sections 448/323/376/511 of the IPC.**

Case diary, as called for, is placed before the court and perused.

It needs to be mentioned that by an earlier order, dated 25.5.2017, passed in AB No. 858/2017, the anticipatory bail application was rejected.

Mr. HRA Choudhury, learned Senior counsel for the petitioner, submits that the allegation that has been brought against the petitioner is a false and concocted one and that the alleged occurrence, as stated in the FIR, had taken place on 13.3.2017 and the FIR came to be lodged on 1.4.2017. Mr. Choudhury further submits that the petitioner is the bread earner of the family and if the petitioner is arrested in connection with the case, the whole family will suffer.

Mr. NJ Dutta, learned Addl. Public Prosecutor, Assam fairly submits that the case against the petitioner was attempt to commit rape on the informant.

The FIR, dated 1.4.2017, reveals the allegation that on 13.3. 2017, the petitioner taking advantage of absence of the husband of the informant, attempted to commit rape on her.

On perusal of the statements of the victim woman, recorded under Sections 161 and 164 of the Cr.P.C., it appears that there is prima facie incriminating evidence against the petitioner. However, there is question of undue delay in filing the FIR, which remained unanswered satisfactorily, subject, of course, to further investigation. The incident came to light after about 3 days of the alleged incident, which prompted the victim to file the FIR.

In the backdrop of the facts and circumstances of the case, this court finds that custodial interrogation of the petitioner may not be required in the interest of the investigation.

Therefore, it is provided that in the event of arrest of the petitioner named above, in connection with the aforementioned case, the arresting authority shall release him on pre-arrest bail of Rs. 25,000/- with one surety of the like amount to the satisfaction of the arresting authority, subject to the conditions (i) that the petitioner shall appear before the I.O. within ten days from today and shall co-operate in investigation; (ii) that he shall not directly or indirectly hamper in the investigation or tamper with the evidence of the case; and (iii) that he shall not directly and indirectly threat or induce any person acquainted with the facts of the case from disclosing such facts and circumstances to the police officer or to the court.

Return the case diary.

With the above directions, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant