

Misc. CrI.320/21

07.07.2021

Seen the petition u/s filed 438 of the Cr.P.C. by the accused-petitioners, namely (1) Banat Ali, (2) Asha Ali and (3) Anar Ali who are apprehending arrest in connection with Mornoi P.S. Case No.65/2021 u/s 448/376(III)/506/34 of the IPC read with Section 4 of POCSO Act.

The case diary is received and I have perused the same. I have also heard the learned counsel for the accused-petitioner as well as the learned Special Public Prosecutor in the virtual court through video conferencing.

The contents of the ejahar, in brief, is that on 06.05.2021, accused Asha Ali had entered into the house of the informant and forcibly committed rape on his minor daughter daughter Sahida Khatun taking the advantage of absence of other inmates of the house. Hearing the shouts of the victim girl, her brother appeared there and seeing the occurrence, he raised hue and cry. Some neighbouring people arrived there and then accused Asha Ali fled away from that place.

The learned counsel for the accused-petitioners submitted that the accused-petitioners are innocent persons and the allegation of rape is false and fabricated. It is further submitted that the matter has been settled between the parties outside the court.

From the medical report available in the case diary shows that the age of the victim girl is between 12 to 15 years. Further, the

victim girl in her statement recorded u/s 164 of the Cr.P.C. has implicated accused-petitioner Asha Ali in commission of the alleged offence. The case has been registered u/s 448/376(III)/506/34 of the IPC including Section 4 of POCSO Act. The offence is serious in nature. Custodial interrogation of accused Asha Ali may be necessary for further investigation. As such, I am not inclined to grant pre-arrest bail to the accused petitioner Asha Ali. Accordingly, the pre-arrest bail petition in respect of accused-petitioner Asha Ali stands rejected.

However, the materials against other two accused-petitioners are found scanty in the case diary. Moreover, the victim girl in her statement u/s 164 Cr.P.C. did not implicate the accused Banat Ali and Anar Ali in commission of serious offence like rape on her. As such, the pre-arrest bail prayer of other two accused-petitioners, namely Banat Ali and Anar Ali is allowed. Accordingly, in the event of their arrest, the arresting authority shall release them on pre-arrest bail of Rs.20,000/- (Rupees twenty thousand) only each with a surety of the like amount to the satisfaction of the arresting authority on condition that they shall co-operate the Investigating Officer in the matter of investigation by appearing before him as and when required.

Send back the C.D. with a copy of this order. A copy of this order shall also be furnished to the accused-petitioners or their learned counsel forthwith by the Bench Asstt./Court Master under his signature and this order shall also be uploaded in the official website of the District Judiciary, Goalpara.

Inform all concerned accordingly.
This Misc. Case is thus disposed of.

Sessions Judge
Goalpara