

Present: Shri C. B. Gogoi, Sessions Judge, Udalguri.

Order

06-03-2020

This is an application u/S 438 Cr.P.C seeking pre arrest bail for accused Sahidul Islam in connection with Rowta PS case No. 13/20 U/S 376/34 IPC.

I have heard the learned lawyers appearing for the both sides.

The allegation in the FIR is that informant has love affair with accused No. 1 name in the FIR who promised to marry her but on 24-12-19 at 9 PM he called her to Padmapukhuri LP School over phone and allegedly committed rape on her in the urinal of the School but the said incident was detected by her mother but accused then fled away. There was a village mel regarding the matter but no settlement had arrived at.

On careful perusal of the case diary including the statement of the alleged victim recorded by the magistrate U/S 164 Cr.P.C. it transpires that the victim had love affairs with Sahidul Islam and as admitted by her she has been indulging frequent physical relation with him allegedly on the assurance of marriage.

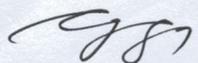
As it appears the girl being major she knowingly consented and indulged in physical relation with accused not only once but on several occasions. So, when such activities are indulged by a girl with consent the ingredients of offence U/S 376 IPC prima facie appears to have not been attracted.

Situated thus, it is provided that in the event Sahidul Islam is arrested in connection with aforesaid case he shall be released on bail on execution of bond of Rs. 10,000/- with one local surety to the satisfaction of the IO.

The bail application is accordingly disposed off.

The case diary be returned in sealed cover.

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(C. B. Gogoi)
Sessions Judge, Udalguri
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