

(2021) 07 GAU CK 0023
In the Gauhati High Court
Case No : Anticipatory Bail No. 1802 Of 2021

Bhakta Das @ Kiran

APPELLANT

Vs

State Of Assam

RESPONDENT

Date of Decision : 07-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 376(2)(I)

Citation : (2021) 07 GAU CK 0023

Hon'ble Judges : Parthivjyoti Saikia, J

Bench : Single Bench

Advocate : F K R Ahmed

Final Decision : Disposed Of

Judgement

Heard Mr. F.K.R. Ahmed, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Addl. P.P. for the State of Assam

By this application under Section 438 of the Cr.PC., the petitioner, namely, Sri Bhakta Das @ Kiran has prayed for pre-arrest bail apprehending arrest

in connection with Hojai PS Case No. 296/2021 under Section 376(2)(I) IPC (GR No. 1137/21).

On 30.04.2021 at about 9.30 PM, one 43 year old woman was found having sexual intercourse with the petitioner. The informant herein is the elder

brother of the woman. He has alleged in his FIR that the entire incident was detected by his son. The informant alleges that the petitioner had

committed rape upon the woman.

Today, I have gone through the case diary.

Mr. Gogoi, the learned Addl. P.P. vehemently objected to the bail application.

The material in the case diary suggests that both the woman and the petitioner were found in nude condition by the son of the informant. I have given my anxious consideration to the submissions made by the both sides. On a plain reading of the FIR and after going through the materials available in the case diary, it appears that the victim woman was a consenting party. For this reason only, this court is of the opinion that the petitioner deserves to be given the privilege of pre-arrest bail. Accordingly, his prayer for pre-arrest bail is allowed. It is hereby directed that in the event of arrest of the petitioner, he shall be released on furnishing a bail bond of Rs. 10,000/- with one suitable surety of the like amount to the satisfaction of the arresting authority.

The petitioner shall co-operate with the investigation and appear before the Investigating Officer as and when called for.

With the above observation and direction, the bail application stands disposed of. Return the case diary.