

Present:

**Sri S.K. Kabra
Addl. Sessions Judge (FTC)
Dibrugarh.**

Criminal Misc. (B) Case No. 53/2022

Order

23.02.2022

This is a petition u/s 439 of CrPC for granting bail to accused Shri Pabitra Lahon, who is in jail custody since 02.02.2022, in connection with Borboruah P.S. Case No. 12/2022 registered u/s 376 of IPC.

Called for Case Diary is received.

I have perused the case record. I have also heard both the parties.

During hearing, Ld. Counsel for the petitioner/accused submitted that accused is innocent and he has been falsely implicated in this case. It is stated that the family members of the accused and complainant are well acquainted and are residing in same locality. It is stated that whenever accused came to his residence on leave he use to bring valuable gifts for both families and had also provided financial help to the complainant. Subsequently after his marriage, the petitioner started to remain busy with his family and stopped unnecessary expenses. Complainant demanded financial help from accused and upon his refusal the complainant has lodged false case against the accused. It is also submitted that accused person shall abide by any condition imposed upon him if bail is granted.

Learned Addl. PP has opposed the bail petition.



I have gone through the entire material on record.

On 02.02.2022, ejarah was lodged by the complainant/victim alleging that 12.10.2021 and 16.12.2021 in the evening at around 5 pm the accused had forcefully raped the complainant. It is also alleged that when the victim told accused that she will be complaining the same to the administration, the accused promised to marry her. However, now the accused is not accepting her and she is 4 month pregnant.

Record reveals that statement of victim was recorded u/s section 161 and 164 of CrPC, wherein victim has categorically stated that she was in love affair with accused since last three years. But almost 8-9 months back the family members of accused forcefully got him married with another girl. However, both of them (accused and victim) were still in relation. It is stated by victim that accused had told her that he will divorce his wife and marry her. She also stated that she had established physical relation with accused because he had promised to marry her. However, now she is pregnant and accused is not accepting her, so she lodged FIR.

From the material on record, it is clear that victim was fully aware that accused is a married person and she established physical relation with the accused on the alleged promise by the accused that he will divorce his wife and marry the victim. Be that as it may be.

The investigation has substantially progressed. And accused is in custody since 02.02.2022.

Considering all the above, including the nature of allegations, material collected by the I.O. against the accused person and fact that investigation has substantially progressed, I am of the view that further custodial



interrogation may not be required in the present case. Accordingly, **the prayer for bail is allowed.**

Accused **Shri Pabitra Lahon is allowed to go on bail** on furnishing a bond of Rs. 30,000/- with two sureties of like amount to the satisfaction of the Elaka Magistrate, with further conditions that :-

- a) Accused shall co-operate with the investigating agency;
- b) Accused shall appear before the Court as and when called;
- c) Accused shall not commit any similar offence;
- d) Accused shall not try to influence the prosecution witness;
- e) Accused shall not tamper with the evidence.

Let a free copy of this order be furnished to the accused through his counsel under the signature/certificate of Bench Assistant.

Send back the case diary along with a copy of this order.

Accordingly, the bail Petition is disposed of.


Addl. Sessions Judge (F.T.C.)
Addl. Sess. Judge
Dibrugarh