

ORDER-SHEET FOR MAGISTRATE'S RECORDS
DISTRICT : SONITPUR.
IN THE COURT OF SESSIONS JUDGE, SONITPUR AT TEZPUR
Criminal (Bail) No. 558/2022

Md. Ishrafil & Ors.

Vs.

State of Assam

Sl. No. of Orders	Date	Order	Signature
	<u>07-11-22</u>	<p>This is an application u/s 438 Cr.P.C. filed by accused/petitioners Md. Ishrafil, Md. Julhas Ali & Md. Bakkar Ali seeking pre-arrest bail in connection with Tezpur PS Case No. 939/2022 u/s 447/448/376/109/506/34 IPC, corresponding to G.R. Case No. 1839/2022.</p> <p>I have heard the learned lawyers appearing for both sides and also perused the case diary received today.</p> <p>The allegation in the FIR is that on 18-08-2022 taking advantage of absence of her husband accused persons entered into her house at 10 PM by forming an unlawful assembly and committed rape on her at the point of sharp instrument by accused No.1 and accused No. 2 & 3 threatened her to kill, however, when she made hue and cry accused persons fled away.</p> <p>It is submitted by learned counsel for State that it is a serious allegation against the accused persons and given the nature of allegation, accused persons do not deserve to be released on pre-arrest bail.</p> <p>On the other hand, learned counsel Sri P.S. Sethi appearing for the accused petitioners contends that firstly it was a false and frivolous case, secondly it is admittedly a land dispute case, thirdly victim was not examined by doctor, fourthly the victim herself submitted settlement agreement before police that no such incident had happened. Therefore, learned counsel for accused petitioners vociferously contended that it is a fit case to extend the benefit of pre-arrest bail to the accused persons.</p> <p>Having heard the learned counsels appearing for both</p>	

sides and on careful perusal of the entire case diary, it transpires that as against the allegations made in the FIR the victim in her statement before Magistrate u/s 164 Cr.P.C. did not state that accused have attempted to commit rape on her. Moreover, along with bail application, learned counsel has submitted documents to show that informant had a land dispute with the accused and she also submitted an affidavit in the police station that case was filed under misunderstanding and she desires to withdraw the case. The factors emerged before this court shows that the credibility of the version of the alleged victim is contradictory and doubtful.

Therefore, considering all the attending factors, it appears that it is a fit case to extend the benefit of pre-arrest bail to accused persons. In the result, the I.O. is directed to release the accused persons namely, Md. Ishrafil, Md. Julhas Ali & Md. Bakkar Ali on pre-arrest bail in execution of a bond of ₹20,000/- (Rupees Twenty Thousand) only with one local surety of like amount i/d jail to the satisfaction of Investigating Officer.

Send back the case diary in seal cover.

Accordingly, the case is disposed of.

Sessions Judge,
Sonitpur, Tezpur.