

**ORDER-SHEET FOR MAGISTRATE'S RECORDS**  
**DISTRICT : SONITPUR.**  
**IN THE COURT OF SESSIONS JUDGE, SONITPUR AT TEZPUR**  
**Criminal (Bail) No. 569/2022**

**Sri Ganesh Kharka**

**Vs.**

**State of Assam**

<b>Sl. No. of Orders</b>	<b>Date</b>	<b>Order</b>	<b>Signature</b>
	<b><u>21-11-22</u></b>	<p>This is an application u/s 438 Cr.P.C. filed by accused/petitioner Sri Ganesh Kharka seeking pre-arrest bail in connection with Thelamara PS Case No. 81/2022 u/s 448/376 IPC, corresponding to G.R. Case No. 1920/2022.</p> <p>I have heard the learned lawyers appearing for both sides and also gone through the case diary.</p> <p>The allegation in the FIR is that the FIR named accused Ganesh Kharka is the neighbor of informant and the informant is a married woman having two minor children. On 01-10-2022 at 9.30 PM accused Ganesh Kharka entered into her house by trespassing and committed rape by threatening her at the point of knife. After return of her husband, when he prevented the accused, he threatened her of killing at the point of knife. In the meantime, victim cum informant made hue and cry, as a result of which villagers gathered there and accused fled away. It is also alleged that accused was sending illicit videos to victim since long through mobile phone and also proposed her on many occasions. Hence, the case.</p> <p>It is submitted by learned counsel for State that it is a serious case of committing rape of a married woman having two minor children in the absence of her husband by threatening her at the point of knife. Therefore, given the serious nature of the allegation, learned P.P. contends that it is not a fit case to consider pre-arrest bail to accused petitioner.</p> <p>On the other hand, learned counsel appearing for the accused petitioner contends that accused is innocent as there is a</p>	

love affair between the accused petitioner and the so called victim who is 35 years old. The victim along with her husband made some nefarious plan to trap the accused petitioner and as a part of her conspiracy, the informant frequently makes telephone calls/ video calls to the accused petitioner who is 24 years old and demanded money from the accused petitioner. Moreover, the informant sent some obscene videos to the accused petitioner and asked the accused petitioner to get intimate with the informant and accordingly, the informant received regularly a handsome amount of money from the accused petitioner and when accused petitioner stopped paying money to informant, she lodged this false and concocted FIR. Therefore, learned counsel for accused press for pre-arrest bail.

Having heard the contention of the learned lawyers appearing for both sides and on careful perusal of the contents of the case diary, it transpires that there is evidence to show that accused had committed rape on the victim. When the alleged victim herself narrated her ordeal the story brought forth by the learned counsel appearing for accused that victim had consensual sexual relation with accused in lieu of money and this has been going on for months and years together and when accused could not pay her money as demanded, she lodged the case cannot be accepted at this stage as when court consider bail of an accused, court is required to see the prima facie case. In the present case, apparently a prima facie case of allegation of rape is made out against the accused irrespective of the story made out by accused.

Therefore, considering all the attending factors, particularly, the nature and gravity of the offence, this court do not consider it a fit case to extend the benefit of pre-arrest bail to the accused petitioner. In the result, bail petition stands rejected.

Send back the case diary in seal cover.

Accordingly, bail petition is disposed of.

Sessions Judge,  
Sonitpur, Tezpur.