

**ORDER SHEET FOR MAGISTRATE'S RECORDS. Adv: F. Haque**

**DISTRICTS : SONITPUR**

**IN THE COURT OF SESSIONS JUDGE, SONITPUR AT TEZPUR**

**MISC. (CRIMINAL (Bail) Case No. 594 of 2022**

**Md. Nur Mohammad, Petitioner VS. STATE OF ASSAM.**

Sl. No.	Date	<u>order</u>	Signature
	<b><u>29-11-22</u></b>	<p>This is an application filed u/s 439 Cr.P.C. by one Md. Nur Mohammad, seeking bail for accused Md. Nurul Amin, who was arrested in connection with Tezpur PS Case No. 1041/22 u/s 420/376/506 IPC, corresponding to GR case No. 1989/22.</p> <p>I have heard the learned counsels appearing for both sides and also gone through the contents of the case diary.</p> <p>As against the contention of the learned Public Prosecutor that it is a serious crime against women of committing rape against her will, learned counsel appearing for accused submits that the girl was major and consenting party to alleged physical relation and now when accused refused to marry her, she filed the false case. It is not a case u/s 376 IPC. Therefore, learned counsel Mr. F. Haque insists for bail.</p> <p>Having heard the learned counsels appearing for both sides and on careful perusal of the case diary, it transpires that the girl has been in affairs with accused but accused had forceful physical relation on her against</p>	

her will under threat who very often threatened her to have physical relation with him else he threatened not to marry her. The version of the victim girl is worthy of credence and it cannot be doubted.

Therefore, it appears that accused obtained forceful consent of the victim. Case diary reveals sufficient materials to show that physical relation with accused is not voluntary but under duress. Even if the girl is major and she has no consent, accused cannot force her to physical relation against her will. Therefore, even if learned counsel for accused submits that accused will marry the girl but given the materials emerged in the case diary, this court is not inclined to grant bail to accused as there is prima facie materials of accused of having been involved in commission of the offence u/s 376 IPC.

In the result, the bail application stands rejected.

Let case diary be returned along with a copy of this order.

(C.B. Gogoi)  
Sessions Judge,  
Sonitpur, Tezpur