

Misc.(Bail) Case No. 02 of 2022.

18.01.2022.

The Petition filed by the accused/petitioner Samiran Das @ Babu, u/s- 438 Cr.P.C, seeking pre-arrest bail in connection with P.R Case No. 219 of 2021 (Biswanath Chariali P.S Case NO. 76/2016), u/s- 376, IPC is taken up today for further hearing as the called for case record is received.

Heard the learned counsel appearing for the accused/petitioner as well as learned Addl. P.P. and carefully perused the materials available in the case record.

The Facts leading to filing of the instant bail petition u/s- 438 of Cr.P.C in brief are that on 19-03-2016, the informant lodged an ejahar alleging that in the preceding morning at about 10.30 A.M, while she was traveling by Ultra Bus from Laluk to Bedeti and the bus reached Bedeti taking advantage that no other passenger was there in the bus except her and the accused Jiarul Rahman and 4 others, the driver of the bus drove it towards Tezpur without stopping it at Bedeti and thereafter the accused persons committed rape on her.

Accordingly, Biswanath Chariali P.S Case No. 76/16, u/s-5 (g) of POCSO Act was registered, investigated into and finally charge-sheet has submitted against the accused Samiran Das @ Babu and 4 others and in the charge-sheet accused/petitioner Samiran Das @ Babu has been shown as absconder.

After taking cognizance, the learned SDJM(M), Biswanath Chariali vide order dated 18-11-2021, issued NBWA against the accused/petitioner Samiran Das @ Babu.

It is submitted on behalf of the accused/petitioner that after lodging of the case, the accused/petitioner was called to the police station and thereafter he was released and after that neither he was called to the police station nor any police personnel came to his house in search of him and therefore question of his absconding does not arise.

It is found from the called for case record that the case was registered in the year 2016 and as per the materials available in the case diary, police went in search of the accused/petitioner Samiran Das @ Babu on 05-09-2021 only.

Considering this fact and circumstances, though charge-sheet is submitted against the accused Samiran Das @ Babu, Showing him as absconder, the contention of the I/O that he was absconding cannot be accepted.

Therefore, I find it a fit case to allow the prayer made by the accused/petitioner, u/s- 438 of Cr.P.C.

The accused/petitioner Samiran Das @ Babu, is directed to appear before the learned SDJM(M), Biswanath Chariali on 24-01-2022 and on his making appearance, he shall be released on bail of Rs. 15,000/- with a suitable surety of like amount to the satisfaction of the learned SDJM(M), Biswanath Chariali.

Send back the case record.