

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH)
ITANAGAR PERMANENT BENCH
NAHARLAGUN

Appeal from
Writ Petition (Civil)

BA No. A3 (AP) 2011

Stu Taba Tagate

Appellant
Petitioner

-Versus-

The State of AP.

Respondent
Opposite Party

Counsel for the Appellant
Petitioner

MR T. Tagum
" H. Lample
" T. Uli
" T. Nagu
" J. Toeking

Counsel for the Respondent
Opposite Party

PP AP.

Noting by Officer or Advocate	Serial No.	Date	Office,note,reports,orders or Proceeding with signature
(1)	(2)	(3)	(4)

IN THE MATTER OF:

Shri Taba Tagar

Village:- Rono,

P.O/P.S:- Doimukh.

Dist: - Papum Pare.

.....Applicant

-Versus-

The State of Arunachal
Pradesh

..... Respondent

No. of Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4
			<p style="text-align: center;">BA 03 (AP) 2011</p> <p style="text-align: center;"><u>BEFORE</u> THE HON'BLE MR. JUSTICE P.K.MUSAHARY</p> <p><i>[13^h January, 2011]</i></p> <p>Heard Mr. T. Tagum, learned counsel for the petitioner, who has filed the present application under Section 439 Cr.P.C. for releasing the accused Shri Tana Tana in connection with Doimukh P.S. Case No. 30/2010 registered under Sections 342/365/376 IPC.</p> <p>An application was earlier moved before the learned JMFC, Doimukh and the same was rejected vide order dated 29-12-2010 after perusing the case diary.</p> <p>Mr. Tagum, learned counsel for the petitioner submits that there are more than one FIR in the same matter and the subsequent FIRs should not be treated as FIR and it can only be taken as statement under Section 162 of the Cr.P.C. Moreover, the Officer-in-Charge concerned has fabricated the story in collusion with the informant to harass the accused person.</p> <p>The aforesaid submission of the learned counsel for the petitioner is not to be decided at this stage.</p> <p>I have perused the relevant case diary as produced by Mr. I. Basar, learned Addl. P.P.;</p> <p>The victim girl was medically examined and the doctor opined that she was hardly 13 years of age. In the medical report, it is also found that there is no sign of rape. However, in the statement under Section 164 Cr.P.C. before the Magistrate, she clearly made a statement that she was raped by the accused above named.</p>

Number or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	<p data-bbox="617 374 1428 595">Because of the aforesaid statement of the victim girl, I do not consider it as a fit case for granting bail to the accused person at this stage. Accordingly, this petition is rejected.</p> <p data-bbox="617 651 1428 928">However, the accused person may approach the learned Court below for sending him under judicial custody inasmuch as he has been kept under police custody for more than one month since he was arrested on 03-12-2010.</p> <p data-bbox="1243 1039 1349 1094">JUDGE</p> <p data-bbox="617 1150 652 1191">sd</p>