

GAHC040005242023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : BA 44/2023

1:Jumak Baruah
S/o Mohan Baruah,
R/o Lakhana Bari,
PO/PS Lakhimpur, District Norh Lakhimpur, Assam.
Ph. No. 6009581738 (m)

VERSUS

1:THE STATE OF AP
Represented by Public Prosecutor, State of Arunachal Pradesh.

Advocate for the Petitioner : Ojing Pada

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 02.05.2023

Heard Mr. O. Pada, learned counsel for the applicant and Ms. L. Hage, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for release of accused Shri Rohit Kumar Singh on bail,

who has been languishing in jail hazot in connection with Miao P.S. Case No. 04/2023, under Section 363 of the Indian Penal Code.

The Case of the petitioner is that on 24.03.2023 an FIR was lodged before the Miao Police Station by Shri Mohan Chakma alleging that his daughter has eloped with one Shri Rohit Kumar Singh on 13.03.2023. Accordingly, the FIR was registered under Miao P.S. Case No. 04/2023 and the petitioner was arrested by the Investigating Officer on 07.04.2023.

The learned Additional Public Prosecutor Ms. L. Hage has produced the Case Diary.

The learned counsel for the applicant submits that the victim and the accused had been in love with each other and therefore, the offence under Section 363 is not made out in the present case and the accused has been co-operating with the investigation. More so, the alleged accused has been in judicial custody for more than 20 days and no further detention of the accused is necessary in this Case.

Ms. L. Hage, learned Additional Public Prosecutor while opposing the grant of bail to the accused, she submits that the victim is a minor girl of 15 years of age and her statement under 164 Cr.P.C is yet to be recorded before the learned CJM. The learned Additional Public Prosecutor has submitted that although statement of the victim girl under Section 161 Cr.P.C shows that she had voluntarily gone with the accused, however, same cannot be accepted in view of fact that the victim is under aged.

Perused the Case Dairy.

On the perusal of the Case Diary especially the statement under Section 161 Cr.P.C of the victim. It is seen that the accused was arrested on 07.04.2023 since it is about a month now, this court deem it fit to grant bail to the accused person Shri Rohit Kumar Singh on the following conditions:

- (i) The accused shall appear before the I.O in connection with Miao P.S. Case No. 04/2023 as and when required;
- (ii) The accused shall be released on executing a bail bond of Rs. 15,000/- with surety of like amount to the satisfaction of the arresting authority.
- (iii) The accused shall not terrorise or tamper with the prosecution witness in any manner whatsoever.
- (iv) The accused shall not leave the jurisdiction of the Court without express permission.

In the event of any of the conditions herein above being violated, the prosecution would be at liberty to seek for cancellation of the bail

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant