

GAHC010002002023



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

Case No. : Bail Appln./50/2023

MIZANUR ALI @ MIJANUR ALI
S/O MD. SUBHAN ALI, VILL-LAKHIMARI PART-III (LAKHIMARI), P.O.-
LAKHIMARI, P.S.-GOLAKGANJ, DIST-DHUBRI, ASSAM, PIN-783334, P/R/A
HATIGAON, NEAR MAZAR, C/O GOLAM MOSTAFA KHAN, P.S.-HATIGAON,
DIST-KAMRUP (M), ASSAM, PIN-781038

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MD. S ALOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 18-01-2023

Heard Mr. S. Alom, learned counsel for the accused-petitioners and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Mizanur Ali @ Mijanur Ali has prayed for his release on bail in connection with Basistha Police Station Case no. 169/2022 [G.R. Case no. 1219/2022], registered under Section 366, Indian Penal Code [IPC].

3. As per the First Information Report [FIR], lodged on 06.02.2022, the informant's

daughter, aged about 16 years, went missing since 06.02.2022. The informant had stated that her daughter had a romantic relationship from earlier with the accused-petitioner and had suspected that the accused-petitioner was behind the kidnapping of her daughter.

4. The accused-petitioner was arrested and thereafter, produced before the Court of learned Chief Judicial Magistrate, Kamrup [M], Guwahati on 08.12.2022 and on being so produced, he was remanded to custody. Since 08.12.2022, the accused-petitioner is in custody.

5. The forwarding report has further mentioned that the accused-petitioner is also an accused in connection with Basistha Police Station Case no. 890/2022 registered for the offence under Section 366, IPC. The allegation in the FIR lodged in connection therewith, by the same informant, is also regarding kidnapping of her daughter by the accused-petitioner.

6. Mr. Alom, learned counsel for the accused-petitioner has submitted that the accused-petitioner is aged about 21 years and both the victim and the accused-petitioner are in a romantic relationship since long.

7. The materials in the case diary, produced by the learned Additional Public Prosecutor today, have been perused. From the Birth Certificate annexed with the application and also available in the case diary, it has emerged that the date of birth of the victim is 03.03.2005. Evidently, at the time of elopement, the victim was a minor. In her statement recorded under Section 164, CrPC, the victim had stated that she had eloped with the accused-petitioner on her own volition without any coercion from the accused-petitioner as she was in a romantic relationship with the accused-petitioner since long. It is noticed that the investigation of the case has progressed considerably as the I.O. of the case has noted that the case is pending for submission of report in final form as there is no action remained to be taken.

8. Having regard to the nature of allegations made in the FIR; the version given by the victim in her statement recorded under Section 164, CrPC; the progress made in the investigation so far; and the period of detention of the accused-petitioner since 08.12.2022,

this Court is of the considered view that further custodial detention of the accused-petitioner is not necessary for the purpose of carrying out further investigation of the case and his release on bail, at this stage of investigation, is unlikely to bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

9. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of Rs. 25,000/- with one local surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M], subject to the conditions that :-

[i] the accused-petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer [I.O.] of the case;

[ii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

10. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant