

GAHC010002502023



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

Case No. : Bail Appln./51/2023

SMT. MILI SINGH AND 4 ORS.
D/O MUDABBAR HUSSAIN, R/O HARILAPARA, DIST-GOALPARA

2: SMT USHA DEVI DAIMARI @ USHA DEVI DAIMAI @ NEHA
D/O BISHNU DAIMARI
R/O MONUJULI
DHEKIAJULI
DIST-SONITPUR

3: SMT MINU DAS @ PAHI
D/O LT DIPAK DAS
R/O MATPARA
CHAYGAON
DIST-KAMRUP (R)

4: CHINTU SHARMA
S/O SHANKAR SHARMA
R/O NO.1 ANANDA NAGAR
P.S.-NOONMATI
DIST-KAMRUP (M)

5: SMT JANMONI DAS
W/O SRI TANMOY DAS
R/O H. NO. 63
LACHIT NAGAR
BISHNUPUR
P.S.-BHARALUMUKH
GUWAHATI
DIST- KAMRUP (M)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A BHATTACHARYA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

18.01.2023

Heard Mr. A. Bhattacharya, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Smt, Mili Singh; Smt Usha Devi Daimari @ Usha Devi Daimai @ Neha; Smt Mitu Das @ Pahi; Sri Chintu Sharma; and Smt Janmoni Das, who have been languishing in jail hazot since 28.12.2022 and 30.12.2022, respectively, in connection with the All Women P.S. Case No. 92/2022 under sections 120[b]/343/371/376/506 of the IPC read with section 3 of the Immoral Traffic [Prevention] Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by informant Smti X [name withheld] of Golaghat, Assam, on 27.12.2022, to the effect that with a view to take beautician course at Guwahati she came to Guwahati along with one Pallabi Kalita who kept her at a Hotel situated at Paltanbazar. Thereafter, she introduced her with one Janmoni Das, owner of unisex parlour "Opus" situated at Ulubari, near Hanuman Mandir, and in the said parlour she was forced to engage in sexual activities with the male customers

against her will, and treated her like a sex slave.

4. Mr. Bhattacharya, learned counsel for the accused submits that the accused persons have been languishing in jail hazot for last 22 days and that the material part of investigation is almost over and custodial detention of the accused persons are not required in the interest of investigation and that they are innocent and falsely implicated here in this case, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor has produced the case diary before this Court and vehemently opposed the petition on the grounds that the IO has collected sufficient incriminating materials against all the accused persons, and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of Mr. Barua, learned Additional Public Prosecutor.

7. It appears that the accused persons have been languishing in jail hazot for last 22 days and the case was registered under sections 120[b]/343/371/376/506 of the IPC read with section 3 of the Immoral Traffic [Prevention] Act, and the materials so far collected in the case diary fails to reveals their complicity with the offence under sections 371/376 of the IPC.

8. Having regards to the nature of rest of the accusations and the punishment prescribed for the same and also the role played by them and further considering their period of detention, this court is of the view that further custodial detention of the accused persons, namely, Smt, Mili Singh; Smt Usha

Devi Daimari @ Usha Devi Daimai @ Neha; Smt Mitu Das @ Pahi; and Sri Chintu Sharma, seems to be unwarranted here in this case, in the interest of investigation.

9. Accordingly it is provided that on furnishing a bond of Rs. 25,000/- (Rupees twenty five thousand) each, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M] at Guwahati, the aforementioned four [4] accused persons be enlarged on bail.

10. However, in view of the materials, so far collected in the case diary, and also in view of the role played by accused, Smt Janmoni Das in commission of the offence, this court is of the view that the privilege of bail cannot be granted to her at this stage. Accordingly, the prayer in respect of the accused No. 5, Smt Janmoni Das, stands rejected.

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

12. The case diary be returned.

JUDGE

Comparing Assistant