

GAHC010005252023



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

Case No. : Bail Appln./144/2023

ABBAS ALI
S/O- ABDUL SAHAD PRADHANI, R/O- VILL- ARATERGAON, KHOPATI PART-
III, P.S- SUKCHAR, DIST- SOUTH SALMARA, MANKACHAR, ASSAM, PIN-
783128

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. J PAUL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

17.01.2023

Heard Ms. J. Paul, learned counsel for the accused and Ms. S.H. Bora,
learned Addl. P.P. for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure,

1973, is preferred by accused, namely, Abbas Ali, who has been languishing in jail hazot in connection with the Sukchar P.S. Case No. 136/2023, under Sections 120B/143/365/302/201/376AB of the IPC read with section 34 of the IPC and read with section 6 of the POCSO Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by the present accused on 19.08.2022, to the effect that his daughter Smti X [name withheld] aged 5 years went to the shop of Mozibar Rahman Mollah on 18.08.2022, at about 2.30 pm and then accused persons namely, Jahan Uddin Mollah; Gias Uddin Mollah; Karimul Mollah; Abdul Baten Mollah; Mosharaf Mollah; Hannan Mollah; Mozibar Rahman Mollah; Aminul Mollah; Shahabuddin Mollah; Shirajul Islam Mollah; and Eah Eah Mollah kidnapped his daughter and during search by the family members they have seen Abdul Baten Mollah fleeing away from the jute field and later on dead body of the victim was recovered from the said place with wrapped with jute in her neck and mouth.

4. Ms. Paul, learned counsel for the accused submits that the accused is the informant of this case and his daughter is killed and he is behind the bar for last 51 days and he has his pregnant wife to look after and there is nobody else in his house to look after his house, and therefore, it is contended to allow this petition.

5. On the other hand Ms. Bora, learned Addl. P.P. by producing the case diary submits that the IO has collected sufficient incriminating materials in the case diary to show the complicity of the accused with the offence and the offences are serious in nature, and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Bora, learned Addl. P.P.

7. Perusal of the case diary reveals that the IO has collected sufficient materials against the accused. The offences are serious in nature and investigation is still going on and enlarging the accused on bail at this stage will misdirect the investigation.

8. In view of above, this court is of the view that this is not a fit case where the privilege of bail can be extended to the accused.

9. Accordingly the petition stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant