

GAHC010007422023



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

Case No. : Bail Appln./147/2023

SAMAD KHAN
S/O LATE KORAN KHAN
VILL- SUHAGPUR,
P.S. BARPETA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 07.02.2023

Heard Mr. H.A. Ahmed, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned APP appearing for the State.

2. The petitioner, who was arrested on 15.12.2022, is seeking regular bail under section 439 Cr.P.C. in connection with Barpeta P.S. Case No. 1206/2022, under sections 120(B)/354(B)/325/379/341/506 IPC, read with section 67 of the Information Technology Act, 2020, corresponding to G.R. No. 2246/2022.

3. The learned APP has produced the case diary and has opposed the prayer for bail.

4. On perusal of the case diary, it is seen that the petitioner is the FIR named accused no.4 and the acquisition against the petitioner in the FIR is that the petitioner, in conspiracy with the FIR named first accused and others had snatched Rs.20,000/- from the bag of the informant and she was assaulted on different parts of her body and her gold chain, ring, ear rings and mobile phone were also looted. The petitioner and other FIR named accused persons are also accused of taking naked photographs of the victim and making it viral and at last, tied her to a tree. It does not appear from the case diary that any mobile phone or equipment by which the photographs were taken was seized. It appears from the note of the I/O in the case diary that he has seized a memory card produced by the victim where a video is available. There is no note in the case diary that the memory card containing video was sent for FSL as to what is the content of the video. There is also no note of the I/O in the case diary that the victim was sent for her medical examination.

5. In view of above, the Court is of the considered opinion that further custodial interrogation of the petitioner may not be necessary. Hence, the Court

is inclined to grant bail to the petitioner, namely, Samad Khan in connection with the aforesaid case on furnishing bail bond of Rs.50,000/- with one suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Barpeta.

6. Bail is granted on the following conditions:

- I. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
- II. The petitioner shall not directly or indirectly make any inducement, threat or promise to the victim or to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
- III. The petitioner shall not obstruct the smooth progress of the investigation/trial.
- IV. The petitioner shall not misuse his liberty in any manner.
- V. The petitioner shall appear before the I/O within 10 (ten) days from the date of his release and he shall continue to appear once in every month till his appearance is dispensed with by the I/O or charge-sheet is filed, whichever is earlier.

7. In the event the petitioner violates any of the terms on which bail

has been granted, the I/O shall be at liberty to move the jurisdictional Court and apply for cancellation of bail.

8. This application stands disposed of.

9. Case diary is returned.

JUDGE

Comparing Assistant