

GAHC010008372023



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

Case No. : Bail Appln./168/2023

AFTAB HUSSAIN
S/O LATE ABUL HUSSAIN,
VILL.- HIRAPARA,
P.S.- DHULA,
DIST.- DARRANG (ASSAM) PIN- 784146.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.01.2023

Heard Mr. H.R.A. Choudhury, learned senior counsel, assisted by Mr. A.M. Ahmed, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned APP appearing for the State.

The petitioner, who was arrested on 08.12.2022, is seeking regular bail

under section 439 Cr.P.C. in connection with Dhula P.S. Case No. 287/2022, under sections 342/354(C)/376/384/506 IPC, read with section 67(A) of the Information Technology Act, 2000.

The learned APP has produced the case diary and has opposed the prayer for bail on the ground that the petitioner is accused of blackmailing the victim girl and threatening her to make her obscene video viral. It is submitted that the petitioner has willingly circulated the obscene video of the victim girl and made viral, which had destroyed her life.

Perused the case diary. It is noted with concern that the case diary does not reveal that the mobile phone of the petitioner was seized and sent for forensic examination. However, it appears from the statement of the victim girl recorded under section 164 Cr.P.C. that the petitioner had demanded money and threatened her to make her obscene video viral. Therefore, although except for the mobile phone data, there are incriminating materials against the petitioner of threatening the victim to make her obscene video viral, but from the case diary, it could not be seen that the mobile phone of the petitioner was seized and sent for forensic examination. Accordingly, 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, Aftab Hussain in connection with the aforesaid case on furnishing bail bond of Rs.1,00,000/- with two suitable sureties of like amount to the satisfaction of the learned Chief Judicial Magistrate, Darrang, Mangaldai. Out of the two sureties, one should offer his immovable property as security for grant of bail, having sufficient value to cover the bail amount.

Bail is granted on the following conditions:

1. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
2. The petitioner shall not directly or indirectly make any inducement, threat or promise 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.
3. The petitioner shall not obstruct the smooth progress of the investigation/trial.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall appear before the I/O within 15 (fifteen) 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.
6. Along with the bail bond, the petitioner shall also give an undertaking in form of an affidavit before the learned Chief Judicial Magistrate, Darrang, Mangaldai that he would not share any photograph of the victim girl with anyone in any sort of social media.

Case diary is returned.

Application stands disposed of.

JUDGE