

GAHC010012992023



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

Case No. : Bail Appln./263/2023

PRADEEP KUMAR KHILLAR @ KHILAR
S/O PRASANT KHILLAR
PRESENTLY RESIDING- AZARA, KALITAPARA
P.S. AZARA, PIN-781015
DIST. KAMRUP (METRO)
PERMANENT RESIDENT OF VILL- SARASANKHA,P.S. SORO
DIST. BALASORE, ODISHA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

01.02.2023

Heard Mr. D. Chutia, learned counsel for the accused and Mr. K.K. Parasar, 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, Sri Pradeep Kumar Khillar @ Khilar, who has been languishing in jail hazot since 10.11.2022, in connection with the Azara P.S. Case No. 173/2022, under Sections 294/506/307/376/384 of the IPC, read with section 67 of the IT Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by the informant Smti. 'X' (name withheld), on 9.11.2022, to the effect that she has developed love relationship with the accused through Facebook and, on 9.11.2022, the accused called her to Odishi Dhaba and there he tried to kill her by his service revolver and forcibly committed rape upon her and also had taken her naked photographs in his mobile phone and demanded a sum of Rs. 50,000/- from her, and uploaded the photograph in the social media.

4. Mr. Chutia, learned counsel for the accused submits that this is the second bail application and the first one was rejected by this court vide order dated 04.01.2023, in BA No. 3475/2022. Mr. Chutia further submits that the ground for filing of this second bail application is the length of detention as the accused is behind the bar for last 83 days and his further custodial detention may not be required in the interest of investigation, and therefore, it is contended to allow this petition.

5. On the other hand Mr. Parasar, learned Addl. P.P. has produced the case diary before this court and submits that the investigation is yet to be completed and the IO has collected sufficient incriminating materials against the accused, 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 Mr. Parasar, learned Addl. P.P and also perused the order dated 04.01.2023, in BA No. 3475/2022.

7. It appears from the order dated 04.01.2023, in BA No. 3475/2022, that the said application was rejected after perusing the case diary and having found sufficient incriminating materials against the accused. It also appears from the petition that the ground for filing this second bail application is only the length of detention, who has been languishing in jail hazoot for last 83 days. It appears form the case diary that the investigation is yet to be completed.

8. Having considered the ground stated in the petition and considering the nature of accusation and balancing the right of the victim and of the accused, 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