

GAHC010013852023



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

Case No. : Bail Appln./243/2023

HIREN GOGOI
S/O- SRI DHARMENDRA GOGOI, R/O- VILL- NAPAM, P.S. NORTH
LAKHIMPUR, DIST.- LAKHIMPUR, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. J C GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 08-02-2023

Heard Mr. J.C. Gogoi, learned counsel for the petitioner as well as Mr. M.P. Goswami, learned APP for the State.

2. The petitioner, namely, Hiren Gogoi, who was arrested on 23.12.2022 in connection with Rangapara P.S. case no.150/2022 under section 6 of POCSO Act (corresponding to GR case no.2143/2022), is seeking regular bail by filing

this application under section 439 Cr.P.C.

3. The learned counsel for the petitioner has submitted that a false story has been made out implicating the petitioner, who is not guilty of the offence. The learned APP has produced the case diary and has opposed the prayer for bail.

4. On a perusal of the case diary, it is seen that the victim minor girl who had run away from her home was found roaming in the railway station at late night hours and she has made consistent statement under section 161 and 164 Cr.P.C. implicating the petitioner of having raped her. The petitioner is a constable in the Rangapara GRPF.

5. It may be mentioned that as per the medical report, there has been no sign of recent sexual assault. In view of the consistent statement of the minor girl that she was raped by the petitioner who is a police personnel, the Court is not inclined to grant bail to the petitioner, namely, Hiren Gogoi. Accordingly, the prayer for bail is refused.

6. The Court has noted with concern the manner in which the report of medical examination of the victim girl was prepared. The medical report, which is signed by the senior Medical officer, Kanakalata Civil Hospital, Tezpur, is on two loose sheets of paper and it is not in the appropriate printed form, which is used for preparing a report in respect of a sexual assault victim.

7. The said medical report dated 22.12.2022 shows non-recording of the

condition of the hymen of the victim girl. As the medical report is not in proper form, it is quite possible that the Court may take any view of the said medical report. Therefore, the Court is inclined to bring this fact to the Director General of Police, Assam as well as to the jurisdictional Superintendent of Police, Sonitpur, Tezpur to examine the medical report which is contained in the case diary of Rangapara P.S. case no.150/2022, under section 6 of the POCSO Act. The Court hopes that the said authorities would examine the matter and if deemed fit, to take appropriate measures of keeping adequate numbers of medical examination reporting forms in all government health centres and hospitals and it is left open to the said authorities to conduct sensitization programmes for the doctors to prepare medical examination report in an appropriate form and manner.

8. Let a copy of this order be sent by the Registry to the Director General of Police, Assam as well as to the Superintendent of Police, Sonitpur, Tezpur and also to the Judicial Academy, Assam.

9. The learned APP shall also send a downloaded copy of the order to the concerned police authorities namely the Director General of Police, Assam as well as to the Superintendent of Police, Sonitpur, Tezpur so as to bring the order to the notice of the said authorities.

10. The bail petition is dismissed.

JUDGE

Comparing Assistant