

GAHC010015912023



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

Case No. : Bail Appln./291/2023

HARUN UL RASHID AHMED
S/O- DANEJ AHMED, R/O- VILL- KRISHANANAGAR, P.S. BILASIPARA,
DIST.- DHUBRI (ASSAM), PIN- 783348

VERSUS

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

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 10-02-2023

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

2. The petitioner, namely, Harun Ul Rashid Ahmed, who was arrested on 12.01.2023 in connection with Bilasipara P.S. case no.16/2023 under section 341/354/354(D)/509/506 IPC with added section 376(2)(n)/313 IPC read with

section 6 of POCSO Act in correspondence with GR case no.23/2023, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned APP has produced the case diary and has opposed the prayer for bail on the ground that the victim in her statement has implicated the petitioner of sexually assaulting her in her minority and that the petitioner in his statement before the IO has admitted having physical relationship with the minor girl.

4. It is seen from the FIR and the statement by the victim girl that she is accusing the petitioner having her indecent photograph in his mobile and was trying to upload the same on Facebook. However, though the police has seized one working and one non-working mobile from the petitioner, the case diary does not reveal that the same has been sent for forensic analysis with regard to indecent photograph, if any, of the victim, who is now a major. The case diary also reveals that the victim girl has refused to undergo medical test for ascertaining whether she was sexually assaulted.

5. Under such circumstances, although the petitioner is sought to be prosecuted under section 376(2)(n)/ 313 IPC read with section 6 of POCSO Act, but considering the aforesaid aspects of the investigation, the Court is inclined to grant bail to the petitioner namely, Harun Ul Rashid Ahmed on bail on furnishing a bail bond of Rs.1.00 lakh (Rupees one lakh only) with two solvent sureties of like amount to the satisfaction of the learned Special Judge, Dhubri.

Out of two bailors, one should offer his/ her immovable property as security for grant of bail.

Bail is granted on the following conditions:

1. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
 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 trial/ investigation.
 4. The petitioner shall not misuse his liberty in any manner.
 5. The petitioner shall not jump over the bail.
 6. The petitioner shall once again appear before the IO once in 15(fifteen) days and she shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
 7. The petitioner shall not leave the jurisdiction of Bilasipara PS without prior initiation of the IO.
 8. If any of the above conditions is violated it would be permissible for the IO to approach the jurisdictional Court and apply for cancellation of bail.
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6. The application stands disposed of.
 7. Case diary is returned.

JUDGE

Comparing Assistant