

GAHC010022112023



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

Case No. : Bail Appln./437/2023

SARFORAS ANSARY
S/O- NURUL ISLAM, R/O- VILL.- KOCHGAON, P.S. RUPOHIHAT, DIST.
NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

23.02.2023

Heard Mr. T. Chutia, learned counsel for the accused and Mr. B. Sarma, 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, Md. Sarforas Ansary, who has been languishing in jail

hazot in connection with the Nagaon Sadar P.S. Case No. 1410/2022, under Sections 376/313/325/34 of the IPC read with sections 4/15 of the POCSO Act, for granting bail.

3. The aforementioned case has been registered on the basis of one F.I.R., lodged by one Azizul Haque on 16.11.2022, to the effect that one Sarforas Ansary had love affairs with his sister-in-law, Smti "X" (name withheld), aged 18 years, for last one year and he committed rape upon her on 05.11.2022, in a rented house and on that point of time, the age of his sister-in-law was 17 years 9 months. Thereafter, his sister in law came to know that she got pregnant and thereafter, Sarforas Ansary taken his sister-in-law to his rented house, situated at Desuwali Patty, Nagaon and there, the present accused along with Nurul Islam, Manuwara Begum and Benejir Ansary have administered tablet to her and got her pregnancy aborted. Thereafter, on 14.11.2022, again Sarforas Ansary has taken her to a Hotel at Basistha and committed physical relation with her, and thereafter, kept her in the house of her relative sister, namely, Arifa Begum and in the morning he again call her to his rented house and physically assaulted her, with the help of his elder sister namely, Benjir Ansary and threatened her that if she inform the police, then the video and photographs will be made viral in the media and left her alone in the room.

4. Mr. Chutia, learned counsel for the accused submits that the accused has completed 90 days in jail hazoot and till date no charge sheet has been submitted by the IO and as such, the accused is entitle to default bail.

5. On the other hand Mr. Sarma, learned Addl. P.P. by producing the case diary before this court submits that he has obtained instruction from the IO concerned and as per said instruction, no charge sheet has been submitted till date.

6. As the IO has failed to submit the charge sheet within the stipulated period

of 90 days, the accused is entitled to default bail under section 167[2] Cr.P.C.

7. Accordingly it is provided that on furnishing a bond of Rs. 25,000/- only with one surety of like amount to the satisfaction of the learned Special Judge, POCSO Act, Nagaon the accused be enlarge on bail.

7. In terms of above this BA stands disposed of.

8. The case diary be returned.

JUDGE

Comparing Assistant