

GAHC010023052023



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

Case No. : Bail Appln./434/2023

JEHIRUL ISLAM
S/O- JUWAHID ALI, R/O- NAM DOBOKA GAON, P.S. DOBOKA, DIST.
NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.02.2023

Heard Mr. H.R.A. Choudhury, learned senior counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Addl. P.P. for the State.

2. The petitioner, Jehirul Islam, who was arrested on 12.01.2023 in connection with Doboka P.S. Case No. 307/2022, under sections

447/294/354/354A/354B/379/506/34 IPC read with section 8 of the POCSO Act, has filed this bail application under section 439 Cr.P.C.

3. The learned Addl. PP has produced the case diary and has opposed the prayer for bail on the ground that the petitioner is a repeat sexual offender.

4. The case diary reveals incriminating materials against the petitioner of sexually assaulting the minor victim. Nonetheless, the learned senior counsel for the petitioner has been able to demonstrate that one Rumiya Begum, who is the estranged wife of the petitioner had filed a maintenance case against the petitioner under section 125 Cr.P.C., which was registered as M.R. Case No. 152/2022 and was being tried before the Court of Judicial Magistrate First Class, Hojai. The said Rumiya Begum is the second wife of the petitioner, who from her previous marriage with Abdul Salam has children, namely, Sabina Yasmin and Suhana Begum and she is the mother of the informant. It has been demonstrated that on 19.06.2022, one step daughter of the petitioner (name withheld) had lodged an FIR with the Officer-in-Charge of Doboka P.S., making similarly worded allegation that she was raped by the petitioner, which was registered as Doboka P.S. Case No. 169/2022 and he was enlarged on bail by order dated 20.07.2022, passed by the learned S.D.J.M.(M), Hojai. Thereafter, the present FIR was filed by the other step daughter of the petitioner (name withheld). The nature of accusation in both the FIRs are strikingly similar. It is highly improbable that the petitioner would rape his step daughter in the presence of his estranged wife and his own son.

5. Therefore, considering that the petitioner has been in custody for about 46 days, and taking note of the projection that the mother of the informant is litigating with the petitioner for maintenance, the Court is of the

considered opinion that his further custodial interrogation may not be necessary.

6. Hence, the Court is inclined to grant bail to the petitioner, Jehirul Islam in connection with Doboka P.S. Case No. 307/2022, on his furnishing a bail bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with 1 (one) solvent surety of like amount to the satisfaction of the learned Special Judge, Hojai.

7. Bail is granted on the following conditions:-

- a) That 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 tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses.
- b) That he shall not obstruct the smooth progress of the trial.
- c) That the petitioner shall not misuse his liberty in any manner.
- d) That the petitioner shall not jump over the bail. The petitioner shall appear before the I.O. within a period of 7 (seven) days from the date of this order and shall continue to appear once every month till his personal appearance is dispensed with or charge-sheet is submitted, whichever is earlier.
- e) In the event any condition for grant of bail is violated, it would be open to the I.O. to move the jurisdictional Court and apply for cancellation of bail.

8. Return the case diary.

9. This application stands disposed of.

JUDGE

Comparing Assistant