

GAHC010025172023



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

Case No. : Bail Appln./558/2023

HIMANGSHU DAS
S/O GOURI KANTA DAS PERMANENT R/O VILL. AJASATAR P.S SARUPETA
DIST. BARPETA ASSAM AND TEMPORARY ADD. VILL. FULOGURI P.S
RAHA DIST. NAGAON ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 02.03.2023

Heard A. Choudhury, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned APP appearing for the State.

2. The petitioner, who was arrested on 18.01.2023, is seeking regular

bail under section 439 Cr.P.C. in connection with Raha P.S. Case No. 307/2021, under section 366(A) IPC, added section 6 of the POCSO Act.

3. The learned APP has perused the case diary and opposed the prayer for bail on the ground that as per the investigation carried out so far, the petitioner is accused of having physical relationship with the victim girl, who is a minor.

4. In this bail application as well as in the affidavit filed by the informant, the consistent stand has been taken that the victim girl had eloped and when she was recovered in Barpeta, the petitioner went to retrieve the victim, but she refused to come back and had threatened the petitioner to implicate him in false case, and accordingly, a false case has been registered against the petitioner. The informant has stated in her affidavit that she has no objection if the petitioner is released on bail.

5. In view of the stand taken by the informant in her affidavit filed on 22.02.2023, taking into consideration that the petitioner was arrested on 18.01.2023 and has suffered custody for last 43 days, the Court is of the considered opinion that further custodial interrogation of the petitioner may not be necessary. Hence, the Court is inclined to grant bail to the petitioner, namely, Himangshu Das @ Himanshu Das in connection with the aforesaid case on furnishing bail bond of Rs.40,000/- with one solvent surety of like amount to the satisfaction of the learned Special Judge, POCSO, Nagaon.

6. Bail is granted on the following conditions:

- I. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when

required.

- II. 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.
- III. The petitioner shall not obstruct the smooth progress of the investigation/trial.
- IV. The petitioner shall not misuse his liberty in any manner.
- V. The petitioner shall appear before the I/O within 10 (ten) days from the date of his release.

7. As the informant has admitted that a false case has been filed against the petitioner, the Court expects that the I/O would take note of the provisions of section 22 of the POCSO Act, 2012 and take appropriate steps as he deems fit and proper.

8. Case diary is returned.

9. The learned APP shall transmit a copy of this order to the I/O.

10. This application stands disposed of.

JUDGE

Comparing Assistant