

GAHC010029602023



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

Case No. : Bail Appln./504/2023

NUR ALOM @ NUR ALOM SHEIKH
S/O CHAN MIAH SHEIKH
VILL- BHAWLAGURI (DANGERPAR)
P.O. NEW BONGAIGAON
P.S. BONGAIGAON
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SMT. PAMPA DAS
W/O SRI GAUTAM DAS
VILL- BHAWLAGURI (BODIBAZAR)
P.O. NEW BONGAIGAON

P.S. BONGAIGAON

DIST. BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MD. S ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27-02-2023

Heard Md. S. Islam, learned counsel for the petitioner as well as Mr. Bankim Sarma, learned APP for the State and Mr. D. Kalita, learned counsel for the respondent no.2.

2. The petitioner, namely, Nur Alom @ Nur Alom Sheikh, who was arrested on 25.01.2023 in connection with Bongaigaon P.S. case no.30/2023 (GR No.48/2023) under section 376(3) IPC read with section 4 of the POCSO Act, 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.

4. On a perusal of the case diary, it appears that the victim girl in her statement recorded under section 164 Cr.P.C. has implicated the petitioner of being sexually assaulted on several occasion. It is not in dispute that the victim girl is a minor girl aged about 13 years.

5. The learned counsel for the respondent no.2 has referred to the affidavit filed by the respondent no.2 on 22.02.2023 and submits that the informant/ respondent no.2 has filed a declaration sworn before the Notary Public at Bongaigaon on 09.02.2023 stating that no such incident was committed on her minor daughter by the petitioner. Under such circumstances, the Court is of the considered opinion that the further custodial interrogation of

the petitioner is not required and hence, the Court is inclined to release the petitioner, namely, Nur Alom @ Nur Alom Sheikh, on bail on furnishing a bail bond of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties of like amount to the satisfaction of the learned Special Judge (POCSO), Bongaigaon. Out of two bailors, one should offer his/ her immovable property as security for grant of bail.

6. Bail is granted on the following conditions:

- a. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
- b. 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.
- c. The petitioner shall not obstruct the smooth progress of the trial/ investigation.
- d. The petitioner shall not misuse his liberty in any manner.
- e. The petitioner shall not jump over the bail.
- f. The petitioner shall once again appear before the IO once in 15(fifteen) days and he shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.

7. In view of the stand taken by the respondent no.2, the IO is directed

to take note of the provision of section 22 of the POCSO Act, 2012 and to take an appropriate decision as to whether the investigation would be extended for lodging a false complaint.

8. The learned APP shall transmit a copy of this order to the IO.
9. Case diary is returned.
10. Application disposed of.

JUDGE

Comparing Assistant