

GAHC010030822023



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

Case No. : Bail Appln./530/2023

AKASH MANDAL
S/O GOUTAM MANDAL,
R/O PUJABARI, (SCHOOL RESERVE),
P.O. AND P.S.- DHING,
DIST.- NAGAON, ASSAM, PIN- 782123.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE P.P.

2:NIKITA DAS
D/O GOBIN DAS
VILL.- NO. 3 KANDHULIMARI
P.O. AND P.S.- DHING
DIST.- NAGAON
ASSAM
PIN- 782123

Advocate for the Petitioner : MR. J A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

17.03.2023

Heard Mr. J.A. Ahmed, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the State.

This application, under Section 439 Cr.PC, is preferred by the petitioner, Akash Mandal, who has been arrested in connection with Dhing Police Station Case No.16/2023 registered under Section 363 IPC read with Section 4 of POCSO Act, 2012.

By a First Information Report, dated 01.02.2023, lodged by the informant, Nikita Das, it is alleged that the victim-girl named in the FIR, who is the daughter of one Sri Gobin Das, aged about 16 years, who is the sister of the informant was forcefully picked up by the petitioner on his motorcycle and they were seen travelling towards Batadrava, Nagaon. Subsequently, the informant's sister was forcefully taken away to Guwahati and compelled to stay with the petitioner in a rented room near Down Town Hospital, Guwahati. It is stated that the petitioner had physical relationship with her sister in the rented room. The FIR was registered as Dhing Police Station Case No. 16/2023 under Section 363 IPC read with Section 4 of POCSO Act, 2012.

Pursuant to the FIR being registered, investigation commenced in the matter. The petitioner was arrested on 01.02.2023 and he was forwarded to the Court of Special Judge, POCSO, Nagaon on the same day. Since then, the petitioner was in custody. As such, the present bail application has been filed.

Case Diary called for vide order, dated 17.02.2023, has been received and the same is produced before this Court today.

The Case Diary contains the statement of the victim girl under Section 164 Cr.PC. The victim girl in her statement has clearly implicated the petitioner. It is also alleged that the petitioner had physical relationship with the victim girl forcefully and without her consent, at Guwahati on the night of the incident.

As per the radiological report, the age of the victim is between 18 to 19 years, which, however, is an approximate age based on medical report.

The Case Diary reveals sufficient incriminating materials against the petitioner and it is seen that the matter is still under investigation. Moreover, charge-sheet has not yet been filed.

Considering the gravity of the offence and the punishment provided under the statute and in view of the incriminating materials available in the Case Diary against the petitioner, this Court is of the view that it will not be in the interest of investigation if the petitioner is released on bail at this stage.

Accordingly, the prayer for bail made by the petitioner is hereby rejected at this stage.

The Bail Application is, accordingly, dismissed.

Case Diary be returned back.

The Investigating Officer is directed to expeditiously complete the investigation and take it to its logical end.

JUDGE

Comparing Assistant