

GAHC010030962023



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

**Case No. : Bail Appln./527/2023**

HAKI ALI  
S/O LT. RUSTAM ALI  
VILL- DANGTOL RAMA BAZAR  
P.O. SHIMLAGURI  
P.S. DHALIGAON  
DIST. CHIRANG, ASSAM  
PIN NO. 783381

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MD H R AHMED**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 20.02.2023**

Heard Mr. H.R. Ahmed, learned counsel for the petitioner. Also heard Mr. Bankim Sarma, learned APP appearing for the State.

2. The petitioner, who was arrested on 14.11.2022, is seeking regular

bail under section 439 Cr.P.C. in connection with Dhaligaon P.S. Case No. 197/2022, under sections 376AB IPC, read with section 4 of the POCSO Act.

3. The learned APP was asked by this Court to make contact with the I/O to obtain information as to whether charge-sheet has been filed in this case.

4. The learned APP has contacted the I/O over phone and he has received information that the I/O has been deputed for an urgent law and order situation which has arisen within the jurisdiction of his police station and accordingly, the learned APP has prayed for 1 (one) day's time to obtain necessary instruction. The learned APP also opposes the prayer for bail.

5. Having regard to the fact that the petitioner is in custody since 14.11.2022 and today is the 98<sup>th</sup> day of custody, in view of the provision of section 167(2) Cr.P.C., as no information has been received as to whether charge-sheet has been filed or not, the Court is of the considered opinion that the petitioner is entitled to default bail. Moreover, the Court takes notice of the submission made in the forwarding report dated 14.11.2022 that after 4-5 days of evading, the petitioner has surrendered before the police.

6. Accordingly, the Court is inclined to grant bail to the petitioner, namely, Haki Ali in connection with the aforesaid case on furnishing bail bond of Rs.2,00,000/- with two solvent sureties of like amount to the satisfaction of the learned Special Judge, POCSO, Chirang. Out of the two sureties, one should offer his/her immovable property as security for grant of bail, having sufficient value to cover the bail amount.

7. 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 and he shall continue to appear once in every 15 (fifteen) days till his appearance is dispensed with or charge-sheet is filed, whichever is earlier.

8. The Court is also inclined to observe that in this case, default bail has been granted to the petitioner as the I/O was on law and order duty and could not inform the learned APP as to whether charge-sheet has been filed or not. Hence, it is provided that in the event charge-sheet has already been submitted before the Court of learned Special Judge, POCSO, Chirang prior to the date of this order, i.e. 20.02.2023, in that event, this order is not required to be complied with and it would be open to the petitioner to approach the learned trial Court and apply for bail.

9. This application stands disposed of.

**JUDGE**