

GAHC010033042023



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

Case No. : Bail Appln./571/2023

HIREN GOGOI
S/O SRI DHENURAM GOGOI
R/O VILL- NAPAM
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR J C GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 24-02-2023

Heard Mr. B.D. Goswami, learned counsel for the petitioner as well as Mr. M.P. Goswami learned APP for the State.

2. The petitioner, namely, Hiren Gogoi, who was arrested on 23.12.2022

in connection with Rangapara P.S. case no.150/2022 under section 6 of POCSO Act corresponding to GR case no.2143/2022, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. This is the second bail application before this Court.

4. The learned APP has produced the case diary and has opposed the prayer for bail on the ground that the petitioner is a member of the uniform force and has sexually assaulted the informant. In the previous order of the Court dated 08.02.2023 passed in BA 243/2023 this Court had recorded that as per the medical report there is no sign of the recent sexual assault but in view of the statement of the minor girl that she was raped by the petitioner, the Court had declined to grant bail to the petitioner.

5. However, at this stage although no additional grounds for prayer for bail is made, but considering that fact that the petitioner has been in custody for last 63 days, moreover, on a further consideration that the petitioner is a member of the Uniform Force, he is not likely to abscond. Accordingly, considering the length of detention of the petitioner, the Court is inclined to release the petitioner, namely, Hiren Gogoi, on bail on furnishing a bail bond of Rs.1 lakh (Rupees one lakh only) with two solvent sureties of like amount to the satisfaction of the learned Special Judge (POCSO), Sonitpur, Tezpur. 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:

1. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
2. 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.
3. The petitioner shall not obstruct the smooth progress of the trial/ investigation.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall not jump over the bail.
6. 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 the event the petitioner makes an attempt to meet the victim girl or to persuade her to abandon the case, it would be open to the IO to move the jurisdictional Court and apply for cancellation of bail.
8. Similarly if during the course of the trial, the petitioner threatens her or tries to molest the minor victim, it would be open to the learned trial Court to cancel bail and take the petitioner into custody.

7. Application allowed.

8. Case diary is returned.

JUDGE

Comparing Assistant