

GAHC010039122023



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

Case No. : Bail Appln./688/2023

SAMIM HUSSAIN
S/O. LT. JIAUR RAHMAN, VILL. BAMUNBORI, P.S HAJO, DISTRICT
KAMRUP (R), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM.

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP,ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 15.03.2023

Heard Mr. A. Ahmed, learned Counsel appearing for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

(2) This bail application is filed by the petitioner, Samim

Hussain, who was arrested on 07.01.2023 in connection with Hajo P.S. Case No. 1130/2022 under Section 366 of IPC (Section 4 of the POCSO Act, 2012 added later).

(3) By an FIR dated 31.12.2022 lodged before the O/C of Hajo P.S, the informant one Sabir Ali alleged that his daughter Purnima Begum was forcibly taken away by the accused petitioner while she was returning home from her tuition classes. The informant alleged that his minor daughter aged about 13 years was taken on a bike to an unknown place by the petitioner as per information from eye witnesses. By the said FIR, prayer was made for recovery of the girl and to take strict action against the accused person after investigation.

(4) The said case was registered as Hajo P.S. Case No. 1130/2022 under Section 366 of IPC (Section 4 of the POCSO Act, 2012 added later). Pursuant to the investigation the petitioner was arrested on 07.01.2023. It is submitted by the learned counsel for the petitioner that a bail application was preferred by the petitioner before the Court of Sessions Judge, Kamrup, Amingaon. The said bail application being BA No. 49/2023 was rejected by the Court vide order dated 09.02.2023. The learned counsel for the petitioner submits that for the first time the petitioner became aware of the fact that Section 4 of the POCSO Act was added with the earlier offence under Section 366 of IPC by the Investigating Officer.

(5) This Court vide order dated 02.03.2023 directed case diary to be produced on 15.03.2023.

(6) Mr. B. B. Gogoi, learned Additional Public Prosecutor for the state of Assam submits that the case diary called for has been received.

(7) Heard the learned counsels for the parties. Perused the bail application. The case dairy submitted by Additional Public Prosecutor has also been perused.

(8) The victim girl in her Section 164 statement has implicated the petitioner and the allegations made in the FIR are also admitted by the victim girl. The certificate of the Head Master/Secretary of R.B.K. Anchalik High School, Kalitakuchi, Kamrup, Assam reveals that the date of birth of the victim girl as per Admission Register is 15.10.2008. As per Medical Report the doctor's opinion is that the age of the victim girl is above 14 years but below 16 years at the time of examination.

(9) Having perused the case dairy it is found that there are materials sufficient to incriminate the petitioner at the stage of investigation. Therefore, at this stage this Court is not inclined to grant bail as sought for as the matter is still in the stage of investigation. However, the Investigating Officer is directed to complete the investigation as expeditiously as possible and take it to its logical conclusion.

- (10) Bail petition is accordingly rejected.
- (11) Returned back the case dairy.

JUDGE

Comparing Assistant