

GAHC010054872023



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

Case No. : Bail Appln./971/2023

JAHEDUL KHAN @ JAHIDUL KHAN
S/O AFJAL KHAN
R/O BALIKURI N.C.
P.S. KALGACHIA
P.O. KALGACHIA
PIN NO. 781319
DIST.BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M RAHMAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

31.03.2023

Heard Mr. M. Rahman, learned counsel appearing for the accused petitioner. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Jahedul Khan @ Jahidul Khan**, has prayed for grant of bail in connection with **Special POCSO Case No. 44/2022 u/s 366(A) of IPC and Section 4 of POCSO Act, under the Kalgachia P.S. Case No. 821/2017 u/s 447 /366(A) /34**

of IPC.

The scanned copy of case record, as called for, is placed before the Court.

Mr. M. Rahman, learned counsel appearing for the accused petitioner, submits that the accused has been in judicial custody for 29 days despite he is innocent. Mr. Rahman further submits that during medical examination of the alleged victim girl, the doctor did not find any sign of sexual intercourse. Mr. Rahman submits that the alleged incident has been amicably settled between the informant/father of the victim minor girl and the accused vide copy of the affidavit in Annexure-5 and accordingly an agreement was executed, copy of which was submitted to the investigating officer. However, Mr. Rahman submits, in spite of all this, the investigating officer has submitted the charge-sheet against the accused in the case. According to Mr. Rahman the alleged victim girl got married to another boy in the year 2018 and she was aged more than 17 years at the time of marriage.

Raising objection against grant of bail to the accused petitioner, Mr. B. Sarma, learned Additional Public Prosecutor, submits that at the time of the alleged occurrence, the victim was a child and the accused petitioner was shown as absconder in the charge-sheet. Mr. Sarma further submits that the offence being allegedly committed against a female child, no compromise can be accepted.

The F.I.R. reveals the allegation that on 17.12.2017 at about 7.30 pm, the accused petitioner along with others forcefully abducted the 16 years old daughter of the informant.

It is noticed that the accused has been in judicial custody since 02.03.2023, that is, for 29 days.

The case record reveals that the victim girl aged about 16 years, in her statement under Section 164 Cr.P.C. has implicated the accused petitioner with the alleged offences.

The record further reveals that after completion of investigation, the police laid a charge-sheet against the accused under Sections 447/366A of the IPC read with Section 4 of the POCSO Act showing him as an absconder. The record shows that after repeated issuance of summons and N.B.W.A. against him, he surrendered before the learned trial court on 02.03.2023. The charges are yet to be considered.

The informant/father of the victim is not impleaded in the instant application.

Therefore, in the backdrop of facts stated above, more particularly keeping in mind the misconduct during investigation and after filing of the charge-sheet, this Court is of the opinion that if the liberty of bail is granted to the accused at the present pre-charge stage, the trial of the case, if charges are framed, may likely to be hampered.

For the above stated reasons, the bail application stands rejected.

This disposes of the bail application.

JUDGE

Comparing Assistant