

GAHC010056802023



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

Case No. : Bail Appln./969/2023

SABIR AHMED
S/O- SAMSUD JAMAL, R/O- VILL.- PASCHIM SAMARALI, P.S. MURAJHAR,
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:MD. ABDUR RAHIM
S/O- KUTI MONAI
R/O- VILL.- PASCHIM SAMARALI
P.S. MURAJHAR
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

26.06.2023

Heard Mr. S. Nawaz, learned counsel for the petitioner. Also heard Ms. S.H. Borah, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 439 of the Code of Criminal

Procedure, 1973, praying for bail of the petitioner, namely, Sabir Ahmed, who has been detained behind the bar since 02.12.2022 (207 days) in connection with Special POCSO case No.11(H)/2023 (arising out of Murajhar Police Station Case No.288/2022) registered under Section 376 (3) of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 pending before the Court of learned Special Judge, Hojai.

The brief facts, necessary for disposal of this bail application, are that on 02.12.2022 the father of the victim lodged an FIR before the In-charge of Choudhury Bajar Patrol Post, *inter alia*, alleging that the present petitioner tried to outrage the modesty of her minor daughter on 01.12.2022 at about 8.30 P.M. On receipt of the said FIR, Murajhar Police Station Case No.288/2022 under Section 354 of the Indian Penal Code read with Section 4 of the POCSO Act, 2012 was registered and investigation was initiated. On complication of the investigation, charge sheet was laid against the petitioner under Section 354 of the Indian Penal Code read with Section 4 of the POCSO Act and the present petitioner faced the trial remaining in custody. The charges were framed under Section 376 (3) of the Indian Penal Code read with Section 4 of the POCSO Act, 2012.

This Court by earlier orders had called for the scanned copies of the case record.

The scanned copy of the case record has been received and this Court has perused the same.

On perusal of the scanned copies of the case record of Special POCSO Case No.11 (H)/2023, it appears that the evidences of the informant and the victim have already been recorded.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case as the father of the victim had purchased some items on credit and he had some outstanding dues to be paid to the present petitioner.

Be that as it may, as the Trial has commenced and as the victim and informant have already been examined by the Trial Court, the continued detention of the present petitioner may not be required, if he otherwise cooperates in remaining part of the trial.

In view of the above, the petitioner, namely, Sabir Ahmed is allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction of the learned Special Judge, Hojai, subject, to the following conditions:

- (i) That the petitioner shall co-operate in the trial and shall make himself available before the Trial Court as and when required;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;
- (iii) That 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 the Court or to any police officer;

With the above observations and directions, the bail application hereby stands allowed and disposed of.

JUDGE

Comparing Assistant