

GAHC010060112023



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

Case No. : Bail Appln./1061/2023

BABUL KHAN @ BABUL ALI KHAN
S/O LT. REZU KHAN @ SARJU KHAN
R/O VILL- NAHORONI MAJGAON
P.S. DERGAON
DIST. GOLAGHAT

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 25.04.2023

Heard Mr. S. Munir, learned counsel appearing for the accused petitioner as well as Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

By this second petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Babul Khan @ Babul Ali Khan**, has prayed for grant of bail in connection with **Sessions Special POCSO Case No. 40/2022 (Dergaon P.S. Case No. 75/2022)** under Section **376** of the IPC r/w Section **4** of POCSO Act.

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

It may be mentioned that the earlier bail application of the petitioner, being Bail Appln. No.1827/2022, was rejected by this Court vide order, dated 26.08.2021.

It is noticed that the accused petitioner has been in judicial custody since 04.05.2022, i.e. for 357 days.

The F.I.R. reveals the allegation that the informant's minor daughter was physically exploited and sexually harassed by the present accused petitioner by enticing her by way of giving money and one mobile hand set.

A perusal of the case record reveals that the learned Trial Court framed charge under Section 6 of the POCSO Act against the accused person for the alleged offence. Thereafter, the learned Trial Court has examined two prosecution witnesses (victim and her father-informant), out of listed six witnesses. The case record, as a whole, reveals that on the date of occurrence, i.e. 29.11.2006, the victim was aged about 15 years 3 months.

Considering entire aspects of the matter and also considering the length of detention in judicial custody , it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with 2 (two) sureties of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Golaghat** subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any of the remaining prosecution witnesses; and
- iii) That the accused petitioner shall refrain from committing any similar

offences in future, of which he is suspected of commission; and

- iv) That out of the two bailors, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Breach of any of the above conditions of bail shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant