

GAHC010062042023



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

Case No. : Bail Appln./1079/2023

KAMAL HUSSAIN
S/O ABDUL MALIK
VILL- BHEBERI
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:URMILA KHATUN
W/O RASIDUL ISLAM
VILL- LATIBARI PART-II
P..S. ABHAYAPURI
DIST. BONGAIGAON
ASSA

Advocate for the Petitioner : MR. A M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 03.04.2023

Heard Mr. S. Islam, learned counsel for the petitioner. Also heard Mr.

R.J. Baruah, learned APP appearing for the State.

2. The petitioner, who was arrested on 05.01.2023, is seeking regular bail under section 439 Cr.P.C. in connection with Garchuk P.S. Case No. 02/2023, under sections 341/376 IPC, read with section 6/8 of the POCSO Act.

3. The learned APP has produced the case dairy and has opposed the prayer for bail on the ground that there are incriminating materials against the petitioner of sexually assaulting the minor victim girl, aged about 10 years. It is also submitted that the earlier application for bail was rejected by this Court by order dated 21.02.2023 passed in Bail Appln. 260/2023 and no new ground have been made out in this case.

4. On perusal of the case diary, it appears that the victim girl is aged about 10 years and in her statement made before the Child Welfare Committee as well as statement recorded under sections 161 and 164 Cr.P.C., she has implicated the petitioner of subjecting her to penetrative sexual assault.

5. Be that as it may, as the petitioner is in custody for 89 days, the Court is of the considered opinion that further custodial interrogation of the petitioner may not be necessary. Hence, the Court is inclined to grant bail to the petitioner, namely, Kamal Hussain in connection with the aforesaid case on furnishing bail bond of Rs.1,00,000/- with two solvent sureties of like amount to the satisfaction of the learned Special Judge, Kamrup (Metropolitan), Guwahati. Out of the two sureties, one should offer his/her immovable property as security for grant of bail, having sufficient value to cover the bail amount.

6. Bail is granted on the following conditions:

I. The petitioner shall make himself available to the police or any

other investigating agency or Court in the present case as and when required.

II. 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.

III. The petitioner shall not obstruct the smooth progress of the investigation/trial.

IV. The petitioner shall not misuse his liberty in any manner.

V. The petitioner shall appear before the I/O within 10 (ten) days from the date of his release and he shall continue to appear once in every 15 (fifteen) days till his appearance is dispensed with by the I/O or charge-sheet is filed, whichever is earlier.

7. In the event, the petitioner makes any attempt to meet the victim girl or any person of her family, it would be open to the I/O to move the jurisdictional Court and apply for cancellation of bail.

8. This application stands disposed of.

9. Case diary is returned.

JUDGE

Comparing Assistant