

GAHC010066582023



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

Case No. : Bail Appln./1150/2023

MD. MUBID ALI
S/O MD. BHULA ALI
R/O BOLIAGHAT
P.S. SIVASAGAR
DIST. SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P P DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

05.04.2023

Heard Mr. T.J. Mahanta, learned Sr. Counsel appearing for the accused petitioner as well as Mr. R.J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Md. Mubid Ali** has prayed for grant of bail in connection with **Special (POCSO) Case No. 01/2023** pending in the Court of learned Addl. Sessions Judge-cum-Special Judge (POCSO), Sivasagar arising out of **Gaurisagar P.S. Case No. 92/2022** under Sections **363/506/376** of the IPC read with Section **6** of the POCSO Act.

The scanned copy of the case record is received.

The allegation made in the FIR is that the accused petitioner on the pretext of love relationship with the informant's daughter captured some improper photographs of her and blackmailed her to upload those photographs in Facebook.

It is noticed that the accused petitioner has been in judicial custody since 05.01.2023, that is, for 91 days.

Perusal of the case record shows that charges were framed on 21.01.2023 against the accused petitioner under Sections 366/506/376(3) of the IPC read with Section 6 of the POCSO Act. Thereafter, 6(six) prosecution witnesses out of 7(seven) listed witnesses including the informant and victim have been examined. On perusal of the evidence so far recorded in the case this Court finds sufficient prima facie incriminating material against the accused petitioner, subject, however, to final outcome in trial of the case. However, considering the length of detention and examination of the material witnesses including the informant and victim, this Court is of the considered opinion that further continuation of detention of the accused petitioner in the interest of examination of only 1(one) prosecution witness (I.O. of the case) may not be

required.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand)** with one surety of like amount to the satisfaction of learned **Special Judge (POCSO Act), Sivasagar** 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 person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court.

Be it mentioned that no observation made in this order shall have any bearing in the judicial discretion of the learned Court below.

The bail application stands disposed of.

JUDGE

Comparing Assistant