

GAHC010082132023



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

Case No. : Bail Appln./1428/2023

ASHRAFUL HOQUE
S/O- MD. MOYNUL HOQUE, VILL.- BOYZERALGA PT-III, P.O. NAYERALGA,
P.S. BILASIPARA, DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.04.2023

Heard Mr. N. Ahmed, learned counsel 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 **Ashraful Hoque** has prayed for grant of bail in connection **Bilasipara**

P.S. Case No. 385/2022 u/s 366/376(3)/313/34 of the IPC read with Section **6** of the POCSO Act read with Sections **9/10** of the Prohibition of Child Marriage Act.

The earlier bail application of the accused petitioner being B.A. No. 980/2023 was rejected by this Court vide order, dated 28.03.2023.

The FIR reveals the allegation that the accused petitioner had been in illicit relationship with the daughter of the informant, aged about 15 years, for last two years and also made her pregnant by establishing physical relation. After 2 months of pregnancy, on 10.07.2022, the accused petitioner married the victim at an unknown place without informing the family members of the informant. But, on 16.07.2022, as per the ill advice of the other FIR named accused persons, the petitioner aborted three months' pregnancy of the victim at Athani Govt. Hospital and thereafter abandoned her.

This Court while rejecting the earlier bail application of the accused petitioner, observed, *inter-alia*, as extracted hereinbelow-

“Perusal of the case diary shows prima facie abundance of incriminating material against the accused petitioner. The evidence shows that he made the victim pregnant and then, with the help of co-accused persons forcibly aborted in a hospital. There is also evidence that the victim was subjected to physical and mental cruelty.

The accused petitioner has been in judicial custody since 28.01.2023, that is, for 60 days.

The medical documents are yet to be collected. In the backdrop of facts and materials available on the case diary, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner, the ongoing investigation into the case is likely to be adversely affected.

Accordingly, the bail application of the accused petitioner stands rejected.”

It is noticed that the accused petitioner has been in judicial custody since 28.01.2023, that is, for 84 days.

Considering the length of detention only, this Court is of the opinion that further continuation of detention of the accused petitioner in the interest of the ongoing

investigation 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 the learned **Special Judge (POCSO Act), Bilasipara** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; 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.

This disposes of the bail application.

JUDGE

Comparing Assistant