

GAHC010084282023



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

Case No. : Bail Appln./1442/2023

ARUN DAS
S/O- LATE PHANIDHAR DAS, RESIDENT OF MAGURGAON, P.S. KAMPUR,
DIST.- NAGAON, ASSAM

VERSUS

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

2:DIPSIKHA HAZARIKA
D/O- SRI PAPU HAZARIKA
R/O- RAJGARH
GUWAHATI
DIST.- KAMRUP
ASSA

Advocate for the Petitioner : MR. P JAIN

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

26/06/2023

Heard Mr. P Jain, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

This application under Section 439 Cr.P.C. has been filed by the petitioner, namely, **Arun Das**,

seeking bail in connection with **Sessions Special Case No. 35/2023 charge-sheeted under Section 366 IPC read with Section 6 of POCSO Act** arising out of **Chandmari P.S. Case No. 456/2022** registered under Section 366 IPC with added Section 4 of POCSO Act corresponding to G.R. No. 8674/2022, wherein he was arrested on 08.02.2023 and since then he is in custody.

Perused the records of Sessions Special Case No. 35/2023 under Section 366 IPC read with Section 4 of POCSO Act arising out of Chandmari P.S. Case No. 456/2022 corresponding to G.R. No. 8674/2022 as well as the statement of the victim recorded under Section 164 Cr.P.C. on 08.02.2023 by the learned Judicial Magistrate, First Class, Kamrup (Metro), Guwahati.

The record reveals that as per the birth certificate of the victim, she is less than 18 years and above 17 years. Both the petitioner and the victim had love affair and they lived together as husband and wife as per the statement of the victim. Further, on all the occasions, the victim at her own wish left with the petitioner and that the parents of the victim were aware of the fact that the victim and the petitioner lived together as husband and wife at Tinsukia as well as at Roha. However, it is seen the victim is a minor less than 18 years of age and the petitioner is also aware of the said fact.

Considering the above and the period of detention of the petitioner in custody since 08.02.2023, the Court is of the view that further custodial detention of the petitioner is not warranted to investigate the said Chandmari P.S. Case No. 456/2022. As such, this bail application of the petitioner in said Chandmari P.S. Case is accepted.

Accordingly, the petitioner, namely, **Arun Das**, be released on bail in said **Sessions Special Case No. 35/2023** arising out of **Chandmari P.S. Case No. 456/2022** registered under Section 366 IPC with added Section 4 of POCSO Act, on furnishing a bail bond of Rs.1,00,000/- with 2 (two) local sureties of the like amount, one of which shall be a Government Employee (Central and/or State of Assam), to the satisfaction of the learned Special Judge (POCSO), Kamrup (Metro), Guwahati on conditions that the petitioner shall – (i) appear before the Investigating Officer of said Chandmari P.S. Case No. 456/2022 as and when he is required for necessary investigation of the case; (ii) not leave the territorial jurisdiction of the Chandmari Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iii) not hamper with the investigation, or tamper with the evidence of the case; (iv) not indulge in any offence or any criminal activities in future and (v) not, directly or indirectly, make any inducement, threat the victim or any of her family member physically and mentally by himself or by his agent or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police

officer, failing which, the bail granted to him in the aforesaid Chandmari P.S. Case No. 456/2022 shall stand automatically vacated.

Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant