

GAHC010089012023



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

Case No. : Bail Appln./1502/2023

GOPAL GAUTAM
S/O LATE PUSHPARAJ GAUTAM, R/O VILL-MUSOLADIANG,
BAITHALANGSO, PIN-782413, P.S.-BAITHALANGSO, P.O.-UMPANAI, DIST-
WEST KARBI ANGLONG, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:NAR BAHADUR GHIMIRE
S/O LATE SHYAM BAHADUR GHIMIRE
R/O VILL-MUSOLADIANG
BAITHALANGSO
PIN-782413
P.S.-BAITHALANGSO
P.O.-UMPANAI
DIST-WEST KARBI ANGLONG
ASSA

Advocate for the Petitioner : MR. M P CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

18.10.2023

Heard Mr. M. P. Choudhury, learned counsel for the accused petitioner. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State

respondent No.1. None appears for the respondent No.2.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Gopal Gautam** has prayed for grant of bail in connection with **Special (POCSO) Case No. 9/2023** pending in the Court of learned Sessions Judge, West Karbi Anglong, Hamren corresponding **Baithalangso PS Case No. 88/2022** under Sections **376(1)/506/370(1)/ 370(3)/120B** of IPC read with Sections **4/6/17** of the Protection of Children from Sexual Offences Act, 2012.

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

The FIR reveals the allegation that in the month of February, 2022, the accused petitioner lured the daughter of the informant aged about 17 years to his house and thereafter, committed rape on her on two occasions by confining her in his house and threatening her not to disclose the matter to anyone. When the informant came to know that his daughter was pregnant and enquired about the matter, the friends of the accused petitioner threatened him and the accused petitioner took the victim to Polyclinic Hospital at Guwahati where she gave birth to a male child on 09.10.2022.

It is noticed that the accused petitioner has been in judicial custody since 18.11.2022, that is, for 335 days.

A perusal of the record shows that a charge sheet under Section 376(2)(f) of the IPC read with Section 6 of the POCSO Act against the accused petitioner was submitted and accordingly, after consideration of the materials on record, the learned trial Court framed charges vide order, dated 11.08.2023. Thereafter, 2(two) material prosecution witnesses (informant and victim girl who is stated to be aged about 17 years) are examined out of 13(thirteen) listed witnesses. There is no possibility of completion of recording evidence of all the remaining prosecution witnesses at an early date. On the other hand, the DNA profiling could not be done as reported by the investigating officer vide report, dated 16.10.2023. The accused petitioner is stated to be aged about 52 years and a permanent resident under Baithalangso P.S. and as

such, this Court finds that there is no possibility of the accused jumping the course of trial of the case, if he is released on bail subject to conditions.

For the above stated reasons, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty thousand) only** with one surety of like amount to the satisfaction of the learned **Special Judge (POCSO Act), Hamren, West Karbi Anglong, Assam** 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 the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court.

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

This disposes of the bail application.

JUDGE

Comparing Assistant