

GAHC010096412023



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

Case No. : Bail Appln./1612/2023

SAHAJAHAN @ SHAHAJAHAN ALI
S/O IBRAHIM ALI
R/O BHALUKKANDI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

02.06.2023

Heard Mr. N. Uddin, learned counsel for the accused petitioner as well as Mr. D.P. Goswami, learned Addl. P.P., Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused/petitioner, namely

Sahajahan @Shahajahan Ali has prayed for grant of bail in connection with **South Salmara P.S. Case No.368/2022** under Sections **120B/366/376/313/34** of the IPC read with Section **4** of the POCSO Act and Sections **3/4** of the Domestic Violence Act.

The case diary, as called for, is placed before the Court.

The brief facts of the case are that on 10.10.2022, the informant lodged an FIR before the Officer-in-Charge, South Salmara P.S., alleging, *inter alia*, that the accused petitioner, who had been in love relationship with her about 2 years 3 months ago, by promising to marry her kidnapped her from her house with the help of the FIR named accused No.2 and established physical relation with her without her consent. As a result, when the informant became pregnant, he with the conspiracy of the FIR named accused No.3 took her to Gauripur Nursing Home and forcefully aborted her pregnancy. On 12.09.2022, the father of the petitioner took her to Meghalaya and left her there. However, after about 25 days, the informant met her uncle, who took her to home.

It is noticed that the accused petitioner has been in judicial custody since 23.03.2023, that is, for 72 days.

It is noticed that the date of birth of the victim girl is 15.05.2008 and during the period of alleged occurrence in the year 2020 she was a child.

On perusal of the allegation made in the F.I.R. lodged by the victim herself and her statements recorded under sections 161 and 164 Cr.P.C., it is revealed that she has implicated the accused petitioner with the alleged offences. She has stated that the accused petitioner forcibly committed sexual intercourse as a result of which she became pregnant and thereafter, he forcibly aborted her. There is indication of love relationship between the accused petitioner and the

victim.

The medical report shows no evidence of recent sexual intercourse/assault on her person. The investigation has substantially progressed.

In view of the above reasons, more particularly, the length of detention and substantial progress in investigation, this Court is of the considered opinion that if the liberty of bail is granted to the accused petitioner, the ongoing investigation is unlikely to be adversely affected.

Accordingly, 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), South Salmara, Mankachar 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 who is acquainted with the facts of the case so as to dissuade him from disclosing such facts to the investigating officer or to the Court;

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant