

GAHC010100542023



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

Case No. : Bail Appln./1655/2023

MAMPI MANDAL @ SHANKARI DAS
W/O SRI SUJIT DAS
R/O VILL- HEMNAGAR
P.S. TEZPUR
DIST. SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. N HASAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

23.05.2023

Heard Mr. N. Hasan, learned counsel for the accused and Mr. K.K. Parasar, learned Addl. P.P. for the State respondent.

2. This application under Section 439 of the Code of Criminal

Procedure, 1973, is preferred by two accused, namely, Smti Mampi Mandal @ Shankari Das, who has been languishing in jail hazoot since 07.11.2022, in connection with the Special (POCSO) Case No.95/2022, arising out of Bihpuria P.S. Case No.150/2022, under Sections 120(B)/372/373/376(3) of the IPC, read with Section 6 of the POCSO Act and added sections 75/81 of the Juvenile Justice Act, for grant of bail.

3. The aforementioned case has been registered on the basis of an FIR, lodged by SI Mohan Borah on 08.08.2022, to the effect that he received information that some illegal prostitution business is going on in the Oyo Hotel, situated on the top floor of Ganga Palace Building in Upper Bandardewa Out Post area and various minor as well as adult girls are inside the said Hotel. Then conducting search in the said Hotel, he recovered one minor girl namely, Jomali Karmakar from Room No.102 and he came to know from her that Sangkari Das sold her to accused Robi Paul and accused Firdus Ahmed had purchased her from Robi Paul.

4. Mr. Hasan, learned counsel for the accused submits that the accused was arrested on 07.11.2022, and since then she has been languishing in jail hazoot for last 197 days. Mr. Hasan further submits that after completion of investigation the IO has laid charge sheet under sections 120(B)/372/373/376(3) of the IPC, read with Section 6 of the POCSO Act and read with section 75/81 of the Juvenile Justice Act. It is the further submission of Mr. Hasan that charge sheet has been submitted against four accused persons and three co-accused have already been enlarged on bail including the husband of the present accused. Mr. Hasan further submits that as many as 14

witnesses have been cited in the charge sheet and that till date no charge has been framed and it is pending in the stage of consideration of charge, since March, 2023. Mr. Hasan also submits that the accused has one two years old son and he has also been languishing along with the accused and that the accused is ready to face the trial, and therefore, it is contended to allow the petition.

5. On the other hand Mr. K.K. Parasar, learned Addl. P.P., Assam has vehemently opposed the petition on the ground that the IO has collected sufficient materials and submitted charge sheet against the accused along with three other co-accused to stand trial under sections 120(B)/372/373/376(3) of the IPC, read with Section 6 of the POCSO Act and read with section 75/81 of the Juvenile Justice Act, and that the offences are serious therefore, Mr. Parasar contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the scanned copy of the case record received from the learned Court below. I have also perused the latest status report submitted by the learned Special Judge, POCSO, North Lakhimpur.

7. It appears that the accused has been languishing in jail hazoot since 07.11.2023, along with her two years old son and in the meantime the investigation has already been completed and charge sheet has been submitted by citing as many as 14 witnesses. It also appears that the case is at the stage of consideration of charge since March, 2023. It also appears that there is no

immediate prospect of conclusion of the trial. Since charge sheet has already been submitted, there is no scope for hampering the investigation or tampering the witnesses. Now the trial will start and the accused has to prepare her defence. Though it is contended that the offences are serious in nature yet this court is sure that some of the sections under which charge sheet is submitted will not be applicable in the case. Under the aforesaid facts and circumstances, this court is of the view that a case for granting bail to the accused is made out and accordingly, the petition stands allowed.

8. Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- only, with one surety of like amount to the satisfaction of the learned Special Judge, POCSO, North Lakhimpur, the accused be enlarged on bail. The learned court below will be at liberty to impose any condition upon bail of the accused so as to ensure her presence during trial.

9. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant