

GAHC010104002023



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

Case No. : Bail Appln./1711/2023

HABIBUL ISLAM
S/O AMIR HUSSAIN
R/O VILL- GOKULPUR, P.O. PIAZBARI
P.S. SUKCHAR,
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783128

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M Z SHAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

~~25-05-2023~~

Heard Mr. M.Z. Shah, learned counsel for the petitioner. Also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam.

This Bail Application has been filed by the petitioner, namely, Habibul

Islam, seeking bail, who is in custody since 05.05.2023 in connection with Hatigaon Police Station Case No.172/2023 registered under Section 366(A) of the IPC.

Learned counsel for the petitioner submits that an FIR dated 04.05.2023 was lodged by the informant one Baikuntha Rongpi in which it was alleged that the petitioner, namely, Habibul Islam had taken away his daughter from the house of one Baby Begum. In the said FIR it was stated that on 30.04.2023 at about 9 A.M. one Baby Begum informed him that his daughter (name withheld), aged about 14 years, went missing from her house. It is stated in the said FIR that his daughter was staying with Baby Begum in her house. From Baby Begum the informant came to know that she - Baby Begum searched for his daughter everywhere and thereafter, she came to learn that the petitioner Habibul Islam had taken away the victim girl to his place. Thereafter, Baby Begum recovered the victim girl and the petitioner with the help of the Sukchar Police and then, the matter was informed to the Hatigaon Police Station. Thereafter, the Hatigaon police brought them from the Sukchar Police Station. After coming to know about the complete incident, the informant lodged the FIR which was received and registered as Hatigaon Police Station Case No.172/2023 under Section 366(A) of the IPC.

Pursuant to the said FIR and upon investigation the petitioner was arrested on

04.05.2023 and thereafter, forwarded to the judicial custody on 05.05.2023.

This Court by order dated 17.05.2023 called for the case diary along with the

medical report of the victim. Mr. P.S. Lahkar, learned Additional Public

Prosecutor, Assam has produced the case diary along with the medical report as

well as the statement of the victim girl recorded under Section 164 Cr.P.C.

Perusal of the case diary reveals that in the statement of the victim girl recorded

under Section 164 Cr.P.C., the victim girl has stated that she on her own went to

the house of the petitioner in Dhubri. The petitioner was known to the victim

girl for last 1 to 1½ year and they both became acquainted through the social

media. The victim girl denied of having any physical relationship with the

petitioner. It was further stated that she did not want to go back to her parents'

house as they used physically abuse the girl child. The girl child, however,

refused to undergo any medical examination. The statement and signature to

that effect of the girl child refusing to undergo medical examination is also

found on the forwarding letter of the medical officer who was to conduct the

medical examination of the victim girl. The statements of the various witnesses

are available in the case diary. However, the case diary does not reveal any

material contrary to the statements made by the victim girl under Section 164

Cr.P.C.

Upon hearing the learned counsels for the parties and upon perusal of the

materials available in the case diary, more particular, after perusal of the statements made by the victim girl under Section 164 Cr.P.C.; *prima facie*, this Court is of the opinion that further custodial detention of the petitioner may not be necessary as there are no such materials in the case diary which suggest that further custodial detention of the petitioner is necessary in connection with the investigation of the case which is being carried on. No materials are also available in the case diary to suggest that grant of bail of the petitioner at this stage will cause impediment to the investigation carried on by the police. Accordingly, the petitioner is directed to be released on bail forthwith.

Accordingly, the petitioner, named above, shall be released on bail in connection with the above noted case, upon furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with1 (one) local surety of like amount to the satisfaction of the Chief Judicial Magistrate, Kamrup(M), , subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer of the case as and when required till completion of the investigation;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;

- (iii) That the 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 Court or to any police office; and
- (iv) That the petitioner shall not leave the jurisdiction of competent Court without obtaining prior permission.

In the event, the petitioner is found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the bail granted to the petitioner.

The Bail Application is accordingly allowed and disposed of.

Return the case diary.

JUDGE

Comparing Assistant