

GAHC010117482023



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

Case No. : Bail Appln./1935/2023

GIYAS UDDIN AND ANR
S/O- LATE SADUL ALI, R/O- KACHARIBORI, P.S LAHORIGHAT, DIST.
MORIGAON, ASSAM, PIN- 782127.

2: SHAH ALOM
S/O- GIYAS UDDIN
R/O- KACHARIBORI
P.S LAHORIGHAT
DIST. MORIGAON
ASSAM
PIN- 782127

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR D J HALOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 02.08.2023

Heard Mr. D.J. Haloi, learned counsel for the accused/petitioners. Also

heard Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioners, namely, **Giyas Uddin and Shah Alom**, in connection with **Special POCSO Case No. 39/2023(arising out of Morigaon P.S. Case No. 6/2023)**.

It has been submitted by the learned counsel for the accused/petitioners that prior to lodging the FIR in the instant case, the victim i.e. the daughter of the informant lodged an complaint case before the CJM, Morigaon under Domestic Violence Act, where she stated that her age as 19 years as such, the provision of POCSO Act is not attracted. It is also stated that the petitioners have been detained in custody for last 164 and 170 days respectively as on date. Considering the background of the case as well as period of detention, petitioner may be enlarged on bail.

Mr. Lahkar, learned Additional Public Prosecutor for the State has opposed in granting bail to the petitioners. It is also submitted that the prayer of the accused/petitioners may be considered after perusal of the scanned copy of the LCR.

I have considered the submissions made by the learned counsel for the parties.

It appears from the record that the accused/petitioner No. 1 is the father-in-law of the victim and the petitioner No. 2 is the husband of the victim. It also appears that the accused/petitioners were arrested on 14.02.2023 and 20.02.2023 respectively and since then they have been languishing in jail hazot. It reveals from the record that charge-sheet was submitted on 28.02.2023 against the accused/petitioners but after five months, charge has not yet been framed before the trial court.

After considering the materials available in the record as well as the length of detention of the accused-petitioners, prayer for bail is allowed.

Accordingly, the accused-petitioners, named above, shall be released on bail in connection with **Special POCSO Case No. 39/2023(arising out of Morigaon P.S. Case No. 6/2023,** on furnishing bail bond of **Rs.20,000/- each** with **one suitable surety each** of the like amount, to the satisfaction of learned Special Judge (POCSO), Morigaon, Assam.

The direction for bail is further subject to the conditions that the accused-petitioners:

(a) shall not leave the territorial jurisdiction of learned Special Judge (POCSO), Morigaon, Assam, without prior written permission from him;

(b) 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 officer.

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

JUDGE

Comparing Assistant