

GAHC010123702023



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

Case No. : Bail Appln./2004/2023

MD ABDUL HAMID
S/O SABED ALI
VILL- SHALMARA
P.S. KAMPUR
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:MUSTT. ANOWARA BEGUM
W/O MD. ABUL HUSSAIN
VILL- SHALMARA
P.S. KAMPUR
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

20.07.2023.

Heard Mr. M.H. Ahmed, learned counsel for the accused and Ms. A.

Begum, learned Addl. P.P., Assam for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, Md. Abdul Hamid, who has been languishing in jail hazot in connection with the Special POCSO Case No.54/2022, under Section 376(3) of the IPC, read with section 6 of the POCSO Act, arising out of Kampur P.S. Case No.66/2021, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one Musstt. Anowara Begum, on 29.05.2021, to the effect that accused Abdul Hamid, who happened to be her father, has taken her daughter Smti 'X' (name withheld) to his house, 8 months back for attending the household works. Thereafter, her father committed rape upon her daughter by showing indecent photographs in the mobile. As a result, her daughter became pregnant and also her father threatened to kill her daughter, if she discloses the matter to others and now her daughter has been carrying pregnancy of 6 months.

4. Mr. M.H. Ahmed, learned counsel for the accused petitioner submits that the accused has been languishing in the jail hajoot for two years one month and twenty one days and he is an old man and he is not entangled with the offence alleged in the FIR and therefore, contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Addl. P.P., Assam has vehemently opposed the bail petition on the ground that the evidence recorded so far by the learned Trial Court reveals complicity of the accused petitioner with the offence alleged in the FIR and therefore, contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the status report, received from the learned Court below, and also the evidence of the witnesses, examined so far by the learned Court

below.

7. It appears that altogether nine witnesses have been cited in the charge sheet and out of the nine cited witnesses, five witnesses have already been examined.

8. After going through the evidence of the five witnesses recorded so far by the learned trial Court below, no prima facie case appears to be made out for granting bail to the accused. Having regard to above and also having regards to the nature and gravity of the offence, this Court is of the view that this is not a fit case for granting the privilege of bail to the accused. Accordingly, this petition stands dismissed.

9. However, the learned Court below is directed to expedite the trial and conclude the same within a period of six weeks from today, without being influenced by any of the observation made here in above.

10. In terms of above, the bail petition stands disposed of.

JUDGE

Comparing Assistant