

GAHC010128642023



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

Case No. : Bail Appln./2050/2023

PINKU DAS
S/O- LATE MAHANTA DAS ,
R/O- GANESHGURI, LICHUBARI,
P.S- DISPUR, GUWAHATI-06, DIST- KAMRUP (M), ASSAM,

VERSUS

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

2:ANJU BARMAN
W/O- RATAN BARMAN

R/O- VILLAGE DEOLI

P.S- AGIA
DIST- GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : M K BORAH
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

23-06-2023

Heard Mr. M K Borah, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC the petitioner, namely, **Sri Pinku Das**, is seeking

bail in connection with **Agia Police Station Case No. 38/2023** corresponding to G.R. No. 399/2023 registered under Section 363 of IPC read with Section 4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, wherein he was arrested on 01.06.2023 and since then he is in custody.

As per the complaint lodged by the mother of the victim that on the day of Saraswati Puja on 26.01.2023 her daughter, the victim, left for the school at around 9 AM, who is about 15 years 7 months studying in class-IX did not return home thereafter. Though they tried a lot to find her out, but they failed and later came to know that the present petitioner enticing her took her away with him forcing her to indulge in unsocial activities. As the victim is a minor, as such, the accused persons have committed the crime.

Said complaint filed before the learned Chief Judicial Magistrate, Goalpara was referred to the Agia Police Station by the concerned jurisdictional Munsiff No. 1-cum-Judicial Magistrate First Class, Goalpara and accordingly, Agia Police Station Case No. 38/2023 was registered under Section 363 of IPC read with Section 4 of the POCSO Act, 2012 against the accused persons of the case.

Perused the Case Diary and the statement of the victim recorded under Section 161 CrPC.

As per the Medical Report of the victim, she appears to be of 16-17 years of age.

Medical Report of the victim submitted by the Sub-Divisional Medical Health Officer, Goalpara Civil Hospital, Goalpara on 08.05.2023 relating to the victim clarified that there was no sign of any recent sexual intercourse or any injury on her private parts.

The victim in her 161 CrPC statement before the police as well as her statement recorded under Section 164 CrPC before the learned Judicial Magistrate First Class, Goalpara on 06.05.2023 stated that she met the petitioner in a marriage ceremony of her brother in the month of April, 2022 and since then she had a relation with him.

In the month of September, 2022 both of them eloped and lived in his house in Guwahati and after three days her mother and brother-in-law along with police came there and brought her back. Then on 26.01.2023 again she eloped with the petitioner and lived together in his house for about three months during which they had physical relation and on 05.05.2023 her mother, sister-

in-law and police brought her back from the place of the petitioner.

Considering such material in the Case Diary, the Court is of the view that further custodial detention of the petitioner is not warranted to investigate the said Agia Police Station Case No. 38/2023. As such, this bail application of the petitioner in said Agia Police Station Case No. 38/2023 is accepted.

Accordingly, the petitioner, namely, **Sri Pinku Das**, be released on bail in said Agia Police Station Case No. 38/2023 on furnishing a bail bond of Rs.50,000/- with 2 (two) local sureties of the like amount to the satisfaction of the learned Special Judge (POCSO), Goalpara on conditions that the petitioner shall – (i) appear before the Investigating Officer of said Agia Police Station Case No. 38/2023 as and when he is required for necessary investigation of the case and shall also appear before the learned Special Judge (POCSO), Goalpara as and when required and as and when the dates are fixed; (ii) not leave the territorial jurisdiction of the Agia Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iii) not hamper with the investigation, or tamper with the evidence of the case and (iv) not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer, failing which, the bail granted to him in the aforesaid Agia Police Station Case No. 38/2023 shall stand automatically vacated.

Return the case diary herewith.

This bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant