

GAHC010132132023



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

Case No. : Bail Appln./2119/2023

SADDAM HUSSAIN
S/O RAFIQUE ALI
VILL- GUMIR PATHAR
P.S. BARPETA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:ABDUL LOTIF
S/O LT. ABDUR ROSHID
R/O GUMIRPATHAR
MOUZA- PAKA
P.S. AND DIST. BARPET

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27-07-2023

Heard Mr. S. Munir, learned counsel for the petitioner.

Also heard Mr. D. Das, learned Additional Public Prosecutor for the State of

Assam.

By this application under section 439 Cr.P.C., the petitioner namely, Saddam Hussain, is praying for bail, in connection with Spl. POCSO Case No. 15/2023, under sections 376B of IPC read with section 4 of POCSO Act as the petitioner is behind bar since 22.12.2022 (218 days).

The accusation in this case is that on 19.12.2022 the informant lodged an FIR before the Officer-in-Charge of Barpeta Police Station, inter-alia, alleging that on 19.12.2022, at about 9 am, the petitioner committed rape on the minor daughter of the informant, aged about 9 years old and thereafter went away from the place of occurrence, by threatening the victim not to disclose the matter to anyone. On the basis of the said FIR, the Barpeta P.S. Case No. 1223/2022 has been registered and subsequently investigation was initiated. Ultimately, after completion of the investigation, charge-sheet was laid against the present petitioner. The petitioner was arrested on 22.12.2023.

The learned counsel for the petitioner submits that the vital witnesses of the case i.e the informant, victim and the mother of the victim have already been examined by the trial Court and after examination. Further, considering the length of detention already undergone by the petitioner, his bail prayer may be considered. It is also submitted on behalf of the petitioner that the present petitioner is a permanent resident of Gumir Pathar under Barpeta Police Station and shall co-operate with the remaining part of the trial if he is granted bail.

The learned Additional Public Prosecutor for the State has opposed the bail prayer of the petitioner and has placed the scanned copy of the case record which was called for in connection with the present case and has submitted that out of seven (7) witnesses only three (3) witnesses including the victim girl and the informant have been examined.

I have considered the submissions made by the learned counsel for sides and also perused the materials placed before me including the scanned copy of the testimony of the victim girl as well as the informant.

Considering the fact that the victim girl has already been examined and also considering the length of detention of the accused petitioner already undergone, this Court is of the considered opinion that further custodial detention of the present petitioner may not be necessary for fair completion of the trial of the case.

In view of above discussions, the petitioner namely, Saddam Hussain is enlarged on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with one suitable surety of like amount, to the satisfaction of the learned Special Judge (POCSO) Barpeta in connection with Spl. POCSO Case No. 15/2023, under sections 376B of IPC read with section 4 of POCSO Act on the following conditions:

(i) That the petitioner shall not The petitioners shall not directly or indirectly make any threat or promise or induce any persons so as to dissuade him or her from disclosing any facts before the learned trial Court failing which bail order will be cancelled;

(ii) that the petitioner shall co-operate with the investigation as and when called for.

With the observations made above, the bail application stands disposed of.

JUDGE

Comparing Assistant