

GAHC010132552023



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

Case No. : Bail Appln./2102/2023

BABUL ALI
S/O LT. LUSH ALI R/O NAMTI CHAIALI JULAGAON P.O. NAMTI CHARIAL
P.S. NAMTI DIST. SIVASAGAR PIN 785684 ASSAM

VERSUS

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

2:MOFIDA BEGUM
W/O HARUSUN ALI R/O NAMTI CHARIALI JULAGAON P.O. NAMTI
CHARIALI P.S. NAMTI DIST. SIVASAGAR PIN 785684 ASSA

Advocate for the Petitioner : MR. A R SHOME

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 19.07.2023

Heard Mr. AR Shome, learned counsel for the accused petitioner as well as Mr. BB Gogoi, learned Addl. Public Prosecutor for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Md. Babul Ali** has prayed for grant of bail in connection with **Special (P) Case No. 21/2023** (Namti

P.S. Case No. 03/2023) under Sections 376(3)/354C/506 of the IPC r/w Section 6/12 of POCSO Act.

The scanned copy of case record along with the case diary is placed before the Court.

It is noticed that the accused petitioner has been in judicial custody since 09.03.2023, i.e. for 45 days.

The allegation in the FIR is that the minor daughter of the informant was forced by the present accused petitioner to indulge in sexual activities and when she refused, he threatened her by showing knife and took photographs of the victim secretly while she was taking bath.

A perusal of the case record reveals that the learned Trial Court framed charge under Section 376(3)/354C/506 of the IPC r/w Section 6/12 of POCSO Act against the accused petitioner, vide order, dated 04.04.2023. Thereafter, the learned Trial Court has examined 16 (sixteen) prosecution witnesses, out of listed 20 (twenty) witnesses. It is seen that PW-15 has implicated the accused petitioner.

However, considering the length of detention of the accused petitioner for 132 days, this Court is of the considered opinion that further continuation of detention of the accused petitioner in the interest of ongoing trial is not warranted.

Therefore, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 40,000/-** with 2 (two) sureties of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Sivasagar** subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of;
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any of the remaining prosecution witnesses;
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is accused of commission; and

- iv) That out of the two bailors, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Breach of any of the above conditions of bail shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant