

GAHC010133502023



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

Case No. : Bail Appln./2160/2023

CHANDRA SARMA @ CHANDRA SHARMA
S/O LATE NARAHARI SHARMA
R/O PP ROAD, HAWELIYA RESIDENCY, P.S. PALTAN BAZAR,
DIST. KAMRUP (M), ASSAM,
PERMANENT ADDRESS- VILL- JAMUGURI, P.S. SOOTIA,
DIST. BISWANATH CHARIALI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 27.06.2023

Heard Mr. N. K. Das, learned counsel appearing for the accused petitioner as well as Mr. D. P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Chandra Sarma @ Chandra Sharma**, has prayed for grant of bail in connection with **Paltanbazar P.S. Case No. 228/2023** under Section **354-A** of the IPC, r/w Section **10** of the POCSO Act.

The case diary, as called for, is placed before the Court.

Mr. N. K. Das, learned counsel for the accused petitioner, submits that the accused has been in judicial custody for 25 days despite being innocent. Mr. Das further submits that the accused has been engaged as a driver by one Jai Kr. Jain for his family, who is a relative of the informant herein. According to Mr. Das, the false FIR came to be lodged, when the accused under direction of his employer went to drop the family of the informant at the place of a religious function, the informant sent his victim daughter alone to him, who was in the car to inform that they would move after sometime and thereafter, she complained to his employer as alleged to his dismay. Therefore, Mr. Das submits that keeping in consideration of the overall facts of the case, the bail application of the accused may be considered favourably.

Mr. D. P. Goswami, learned Addl. Public Prosecutor, submits that the victim girl is stated to be aged about 12 years and she, in her statement under Section 164 Cr.P.C., stated that the accused touched her thigh and hand inappropriately. Mr. Goswami fairly submits that the case diary at best reveals a case of sexual assault against the accused petitioner.

The FIR reveals the allegation of sexual assault on the minor daughter of the informant by the accused petitioner.

It is noticed that the accused petitioner has been in judicial custody since 03.06.2023, i.e. for 25 days.

It is further noticed from the Birth Certificate that the date of birth of the victim girl is 02.05.2011 and as such, on the date of alleged occurrence, she was aged about 12 years.

A perusal of the statements of the victim child recorded under Sections 161 and 164 Cr.P.C., it is revealed that she has implicated the accused with an offence of 'sexual assault' as stated above, which is defined in Section 7 of the POCSO Act. The material witnesses are already examined in the case under Section 161 Cr.P.C. Therefore, this Court is of the opinion that further continuation of detention of the accused in the interest of ongoing investigation is not warranted.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 40,000/-** with one surety of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Kamrup (M) at Guwahati** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- ii) That the accused petitioner 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 Police Officer or the Court.

Any breach of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant