

GAHC010136542023



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

Case No. : Bail Appln./2172/2023

SANIDUL ISLAM AND 2ORS
S/O RAJAV ALI R/O UZIAR CHAR P.S ALOPATI CHAR RPS DIST. BARPETA
ASSAM

2: RAHIJUR ISLAM
S/O JAHIRUL ISLAM R/O LEWABARI FUTURIPARA P.S MORNAI DIST.
GOALPARA ASSAM

3: AJAHAR ALI
S/O MD. JAMALUDDIN R/O LEWABARI FUTURPARA DIST. GOALPARA
ASSA

VERSUS

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

2: JYOTI DAS
S/O BAPUKAN DAS R/O TILLING GAON P.S NORTH GUWAHATI P.S NORTH
GUWAHATI DIST KAMRUP ASSAM PIN 78103

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

28-06-2023

Heard Mr. A Paramanik, learned counsel for the petitioners and Mr. M P Goswami,

learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC the petitioners, namely, **(i) Sanidul Islam; (ii) Rahijur Islam** and **(iii) Ajahar Ali**, are seeking bail in connection with **North Guwahati Police Station Case No. 66/2023** registered under Sections 376-DA of IPC read with Section 6 of the Protection of Children from Sexual Offences Act (POCSO), 2012, wherein they were arrested on 04.06.2023 and are in custody since then.

As per the FIR of the Case, the minor niece of the complainant on the night of 02.06.2023 went out to attend nature's call and did not return. In spite of her search, she was not found. Later, around 2 AM she was found with four numbers of masons in a campus near her house and on being enquired, the victim replied that two of them had physical relation with her.

In her statement, the victim implicated the petitioner No. 1 and another accused, namely, Kader Ali, and stated that the other two accused persons, i.e., petitioner Nos. 2 & 3 were living in the same room where Kader Ali and the petitioner No. 1 had physical relation with her.

From the Case Diary, it is seen that the main accused of the case is the petitioner No. 1, namely, **Sanidul Islam** and one, namely, Kader Ali.

It is also seen that the victim is a minor of less than 15 years of age and studying in Class-IX.

Considering the 164 statement of the victim made before the learned Magistrate as well as her 161 statement made before the police, the bail prayer of the petitioner No. 1, namely, **Sanidul Islam**, in said North Guwahati P.S. Case No. 66/2023 stands rejected.

With regard to the petitioner No. 2, namely, **Rahijur Islam** and petitioner No. 3, namely, **Ajahar Ali**, the Court is of the view that their further custodial detention is not warranted to investigate the said North Guwahati P.S. Case No. 66/2023. As such, this bail application of the petitioner No. 2 and 3, named above, in said North Guwahati P.S. Case No. 66/2023 is accepted.

Accordingly, petitioner No. 2, namely, **Rahijur Islam** and petitioner No. 3, namely, **Ajahar Ali**, be released on bail in said North Guwahati P.S. Case No. 66/2023 on furnishing a bail bond of Rs.1,00,000/- each with 2 (two) local sureties each of the like amount, one of which shall be a Government Employee (Central and/or State of Assam) to the satisfaction of the learned Chief Judicial Magistrate, Kamrup, Amingaon on conditions that the petitioner No. 2 & 3 shall – (i) appear before the Investigating Officer of said North Guwahati P.S. Case No. 66/2023 on every Monday during 1st half of the office hours between 10 AM to 1 PM in the week commencing from 10.07.2023 for the next 8 (eight) weeks and thereafter, as and when they are required for necessary investigation of the case; (ii) not indulge in any such offence or criminal activities in future; (iii) not leave the territorial jurisdiction of the North Guwahati Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iv) not hamper with the investigation, or tamper with the evidence of the case and (v) 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 them in the aforesaid North Guwahati P.S. Case No. 66/2023 shall stand automatically vacated.

Return the case diary herewith.

This bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant