

GAHC010138642023



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

Case No. : Bail Appln./2231/2023

RAJDEEP PODDAR
S/O UMASANKAR PODDAR @ OMSANKAR PODDAR @ UMASAKAR
PODDAR PERMANENT R/O VILL. SUPAUL NIRMALI CHOWK P.S SUPAUL
DIST. SAPUAL BIHAR AND PRESENTLY RESIDING AT BHANGAGARAH
ABC P.S. BHANGAGARH GUWAHATI DIST. KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

18.07.2023

Heard Mr. B.K. Mahajan, 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 **Rajdeep Poddar** has prayed for grant of bail in connection with **Patacharkuchi P.S. Case No.256/2023** under Sections **370/370A/372/34** of the IPC read with Sections **4/6** of the POCSO Act, 2012 read with Sections **4/5** of the Immoral Traffic (Prevention) Act, 1956.

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

Mr. B.K. Mahajan, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in jail for 55 days despite being innocent. Mr. Mahajan further submits that the accused has undergone police custody for 10 days and as such, his further detention in custody is, perhaps, not required for the purpose of investigation. Mr. Mahajan submits that the contents of the F.I.R. do not disclose any implicating information against the present accused, but subsequently based on statements of the co-accused persons to the effect that he was also involved, he is arrested. According to Mr. Mahajan, the offences under Sections 370/370A/372 of the IPC do not absolutely apply to the alleged role of the present accused.

Mr. D.P. Goswami, learned Addl. Public Prosecutor, submits that the case diary reveals that the accused petitioner happened to be a friend of a lady who is one of the prime accused prima facie directly involved in flesh trade. Mr. Goswami further submits that the victim women numbering three, two of them divorcee and one minor in their statements under Sections 161 and 164 Cr.P.C. stated the circumstances in which they were lured to the illegal trade by the arrested accused persons except the present accused and otherwise there is no sufficient evidence against him.

The F.I.R reveals the allegation that on 24.05.2023, at about 11.30 p.m., the Officer-in-Charge of Patacharkuchi P.S. received secret information from reliable source that one Maruti Alto Car bearing Registration No. AS-01PC-1760 was coming from Guwahati to Kokrajhar via NH-27 for the purpose of prostitution and immoral trafficking of women and children. Accordingly, naka checking was conducted by police and accused persons, namely Bandana Deka and Nipan Das along with three victim girls and two children were caught red handed. During interrogation the victims stated that they were forcibly brought from Guwahati by accused Bandana Deka with the help of Nipan Das to sell them for prostitution. They also stated that one Asia Begum @Marjina Begum@Pinki, Akkash Ali@ Kana, Samsul Haque and the present accused petitioner have been running a racket of prostitution as well as immoral trafficking of women and children at various places in Guwahati. On the basis of information, police conducted search operation in the houses of the accused persons and apprehended them along with cash amount of rupees one lakh seven thousand from the possession of Akash Alia and Ashia Begum @Marjina Begum.

It is noticed that the accused petitioner has been in judicial custody since 25.05.2023, that is, for 55 days.

A perusal of the statement u/s 164 Cr.P.C. of one of the victim woman, who deserted the matrimonial home due to marital discord and major, implicated the present accused for resisting her from coming out of the flesh trade racket and as such, suspected his involvement in the aforesaid illegal flesh trade. Another victim, who also disserted her matrimonial home due to marital discord, in her statement u/s 164 Cr.P.C., has not implicated the present

accused, while the other minor woman, stated to be aged about 17 years, disclosed that the present accused and others, took her towards Kokrajhar for the purpose of selling. The accused petitioner has undergone police custody for six days and identified in T.I.P. The case diary does not clearly disclose direct evidence that the present accused petitioner in fact lured the victim women to the prostitution trade. The investigation appears to have substantially progressed so far the complicity of the present accused is concerned. Therefore, this Court is of the opinion that further continuation of detention of the accused petitioner for the purpose of the ongoing investigation is not warranted.

For the above stated reasons, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand)** with one surety of like amount to the satisfaction of learned **Special Judge (POCSO Act), Bajali** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required;
- 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; and
- iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused or suspected of commission.

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

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant