

GAHC010144162023



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

Case No. : Bail Appln./2305/2023

NASIRUDDIN GIRJAHAN
S/O ABDUL KALAM
VILL- 1 NO. AHMEDPUR
P.S. BIHPURIA
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27.07.2023

Heard Mr. N. Uddin, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Nasiruddin Girjahan, who has been detained behind the bar since 19.05.2023 (since last 70 days) in connection with Bihpuria P. S. Case No. 90/2023 under section 376/34 of the IPC.

The accusation in this case is that on 18.05.2023, the victim lodged an FIR before the Officer In-charge of Bangalmara Police Out Post, *inter-alia*, stating that on 17.05.2023 one Emran Mamud took the informant on his motorcycle to some unknown place and committed rape on her.

It is also alleged that present petitioner later on came there and he also tried to rape the first informant, and when the first informant made hue and cry both the accused persons were apprehended by local people and handed over to the police.

Learned counsel for the petitioner submits that he has been falsely implicated by the petitioner in the FIR.

It is submitted that he went to the place of occurrence on receiving the phone call from Emran Mamud who informed him to come to that place as he was in some problem and when he reached there, he found a gathering of people, who apprehended the main accused Emran Mamud, they also apprehended the present petitioner.

On receipt of the said FIR, Bihpuria P. S. Case No. 90/2023 was registered.

On the other hand, learned Additional Public Prosecutor has placed the case diary of Bihpuria P. S. Case No. 90/2023 which was called for in connection with this case.

He submits that the present petitioner tried to commit rape on the informant as apparent from the statement of the victim, which was recorded under Section 164 CrPC.

Learned Additional Public Prosecutor also submitted that the investigation has otherwise fairly progressed and statement of witnesses have been recorded by the Investigating Officer and the investigation is pending for collection of FSL Report and the medical report of the victim girl.

I have heard the submissions made by the learned counsel for both sides and perused the material on record.

Though, there are incriminating materials against the present petitioner however, considering the progress made in investigation as well as considering the period of detention undergone by the present petitioner, i.e. 70 days, this Court is of the considered opinion that his further custodial detention may not be necessary for fair completion of the investigation of Bihpuria P. S. Case No. 90/2023, if he co-operates with the Investigating Officer.

In view of the above, the present petitioner, namely Nasiruddin Girjahan, is hereby allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction of the Chief Judicial Magistrate Lakhimpur, North Lakhimpur with conditions:

1. That the petitioner shall co-operate with the Investigating Officer in investigation of Bihpuria P. S. Case No. 90/2023.

2. The 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 Investigating Officer of the said case or to any court.

With the above, observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant