

GAHC010144722023



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

Case No. : I.A.(Crl.)/566/2023

NITYA NANDA GOGOI,
S/O HALIRAM GOGOI,
RESIDENT OF VILLAGE AKHAIPUTIA, KHELUA, DIST SIBSAGAR, ASSAM,
PIN 785697

VERSUS

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

2:MRS. ROSHAN KHATUN
W/O SYOUKAT KHAN
RESIDENT OF B.G ROAD
PS AND DIST SIVASAGAR
ASSAM
PIN 78564

Advocate for the Petitioner : M K BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

30.06.2023

Heard Mr. M.K. Borah, learned counsel for the applicant/appellant as well as Mr. B.B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

2. By this interlocutory application under Section 432 Cr.P.C. read with Section 67 of the Assam Prisons Act, 2013, the applicant/appellant, who is convicted vide the

impugned Judgment and Order, dated 09.05.2023, passed by the learned Addl. Sessions Judge-cum-Special Judge(POCSO) in special (POCSO) Case No.15/2020 and sentenced to undergo R.I. for 10(ten) years with fine of Rs.5,000/-, in default, to undergo R.I. for another 3 months u/ss 6/18 of the POCSO Act, has prayed for his release on parole for a period of one month pending disposal of the connected Criminal Appeal No.169/2023.

3. Mr. M.K. Borah, learned counsel for the applicant/appellant, submits that on 20.06.2023, the girl child of the applicant/appellant suddenly fell ill because of her breathing problem since birth, for which she had to be admitted in Sanjivani Diagnostics & Hospital at Dibrugarh with the help of neighbours and since then she has been undergoing treatment at Sanjivani Diagnostics & Hospital, Dibrugarh vide Annexure-D, the medical documents. Mr. Borah also submits that the attending Doctors have advised to take the child for further treatment outside the State and since the applicant/appellant is the only bread earner of the family, his presence is vitally necessary at the time of family crisis as well as to look after the deteriorating health condition of his girl child. As such, Mr. Borah submits that as an ad-interim measure, the applicant/appellant may be allowed to go on parole for a month to look after his child as well as for her better treatment outside the state. Mr. Borah submits that the applicant undertakes to abide by the conditions of the parole, if granted.

4. Mr. B.B. Gogoi, learned Addl. Public Prosecutor, submits that if the interim bail is granted, it may be granted for a maximum period of fifteen days only.

5. I have heard the learned counsel for both sides as stated above and considered the grounds cited in the petition along with the medical documents annexed thereto.

6. Considering the deteriorating health condition of the girl child of the accused petitioner as has been averred in the petition supported by medical documents, it is directed that the applicant/appellant namely **Nitya Nanda Gogoi** shall be released on

interim bail of **Rs.30,000/- (Rupees Thirty Thousand only)** with two sureties of the like amount to the satisfaction of the **learned Special Judge (POCSO Act), Sivasagar** subject to the following conditions-

- i) That this interim bail shall remain in force for a period of 30(thirty) days from the date of release of the accused petitioner;
- ii) That the accused petitioner shall report back to the Superintendent, District Jail, Sivasagar on the 30th day, afternoon, from the date of release on interim bail;
- iii) That out of the two sureties, 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; and
- iv) That there shall be no extension of the interim bail period for any reason beyond the above fixed period.

With the above directions, the Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant