

GAHC010150422023



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

Case No. : Bail Appln./2395/2023

MD. ABDUL KUDDUSH ALI @ ABDUL ALI
S/O MD. JAHAN UDDIN SHEIKH, VILL-DHARMASALA, PART-I, P.S.-
DHUBRI, DIST-DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 07.08.2023

Heard Mr. A.K. Ahmed, learned counsel for the accused/petitioner.
Also heard Ms. S.H. Bora, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking

bail by the accused-petitioner, namely, **Md. Abdul Kuddush Ali @ Abdul Ali**, in connection with **Sessions Case No. 115(NL)/2023** pending in the court of learned Additional Sessions Judge (FTC), Lakhimpur, North Lakhimpur.

It is submitted by the learned counsel for the petitioner that petitioner has been detained in custody for the last 88 days. It is also submitted that in this case, trial is going on and the statement of the victim was recorded from which it reveals that the victim is a major girl and she was consenting party about the sexual intercourse with the petitioner. Considering the period of detention as well as the nature of the case, the prayer for bail may be considered.

On the other hand, Ms. Bora, learned Additional Public Prosecutor for the State has opposed in granting bail to the petitioner. It is also submitted that in this case prosecution will examine 9(nine) witnesses out of which only 2(two) witnesses are examined. It cannot be said that the trial is completed within one or two months. It is further submitted that the petitioner's resident is at Dhubri and the trial in this case is going before the learned Addl. Sessions Judge(FTC), Lakhimpur. As such, there is every possibility that if the bail is granted to the petitioner, he may not be available in further court proceeding.

I have considered the submissions made by the learned counsel for the parties.

Considering the period of detention as well as the fact as reflected in the statement of the witnesses, this Court is of the view that further

custodial detention of the accused-petitioner is not necessary. Hence, the prayer for bail is allowed.

Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Sessions Case No. 115(NL)/2023**, pending in the court of learned Additional Sessions Judge (FTC), Lakhimpur, North Lakhimpur on furnishing bail bond of **Rs.30,000/-** with **two suitable sureties** of the like amount out of which one of the sureties should be a Government employee, to the satisfaction of learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur, Assam.

The direction for bail is further subject to the conditions that the accused-petitioner:

(a) shall not leave the territorial jurisdiction of learned Additional Sessions Judge(FTC), Lakhimpur, North Lakhimpur, Assam, without prior written permission from him/her;

(b) 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 Court or to any police officer;

(c) shall appear on each and every date of hearing during trial. The learned trial court is at liberty to impose any further conditions to procure attendance of the petitioner during trial.

The observation made above, shall confine for the purpose of disposal of this petition only and shall not in any way affect the proceeding

of the learned trial court.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant