

GAHC010151462023



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

Case No. : Bail Appln./2403/2023

ASIA BEGUM @ MARJINA BEGUM @ PINKY @ AMIYA
D/O ANSER ALI
R/O VILL- MENATTARY
P.S. AND DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

18.07.2023

Heard Mr. N.J. Dutta, 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 second petition under Section 439 Cr.P.C., the accused-petitioner, namely **Asia Begum @Marjina Begum @Pinky @Amiya** 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 earlier bail application of the accused petitioner being B.A. No.2003/2023 was rejected by this Court vide order, dated 26.06.2023.

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

Mr. N.J. Dutta, learned counsel appearing for the accused petitioner, submits that the accused petitioner woman has been languishing in judicial custody for 55 days in connection with the case despite being innocent. Mr. Dutta further submits that the accused is arrested on mere suspicion based on false, fabricated and concocted information. Mr. Dutta also submits that the accused has undergone police interrogation in custody and her husband being a cardiac patient requiring constant medical attention, her bail application may be considered.

Mr. D.P. Goswami, learned Addl. Public Prosecutor, submits that the case diary including the statements of the victim women reveals sufficient incriminating material against the accused petitioner and in the backdrop of evidence, the only ground left in favour of the accused petitioner is the length of detention.

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 the present accused petitioner, Akkash Ali@ Kana, Samsul Haque and Rajdeep Poddar 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 Ali and the present petitioner.

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 case diary along with the statements of the three victim women, of whom two are major and one minor, stated to be aged about 17 years, recorded under Sections 161 and 164 Cr.P.C., it is revealed that there is sufficient prima facie incriminating material against the accused petitioner woman. It is revealed that the present accused and her husband and their associates forced the victims to prostitution trade for illegal monetary gain. The accused petitioner was remanded in police custody for one day and was identified by the victims in Court. The investigation appears to have substantially progressed in respect of her complicity in the commission of the alleged offences.

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.

Accordingly, 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 she 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