

GAHC010152122023



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

Case No. : Bail Appln./2426/2023

DHIREN MAZUMDAR
S/O LATE PITAMBAR MAZUMDAR
C/O SUREN KALITA
R/O FORESTGATE, NARENGI
P.O. AND P.S. NOONMATI
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR
ORDER

Date : 21.07.2023

Heard Mr. D. Kalita, learned counsel appearing for the accused petitioner as well as Mr. B. B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Dhiren Mazumdar**, has prayed for grant of bail in connection with **Noonmati P.S. Case No.169/2023** under Section **363** of the IPC, r/w Sections **6/8/17/21** of POCSO Act, r/w Sections **75/77** of J.J. Act, r/w Section **14(1)**

of Child Labour (Prohibition and Regulation) Act,.

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

Mr. D. Kalita, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in judicial custody for 41 days despite being innocent. Mr. Kalita further submits that the accused was not aware of the facts and circumstances of the case.

Mr. B. B. Gogoi, learned Addl. Public Prosecutor, submits that the statements of the victim minor girls recorded under Sections 161 and 164 Cr.P.C. show difference in material particulars.

The FIR reveals the allegation of kidnapping of two minor girls by the FIR named accused persons.

It is noticed that the accused petitioner has been in judicial custody since 10.06.2023, i.e. for 41 days.

A perusal of the statements of the two victim girls, one aged about 14 years and another aged about 9 years, recorded under Sections 161 and 164 Cr.P.C. reveal that both of them deserted the informant's house in the evening hours and roamed around but they missed the road to the informant's house. One of them, in her statement implicated two persons, one shop keeper, who touched her some day before the date of occurrence in indecent manner while going to buy goods. In the relevant evening of the day of occurrence, another person, who is now arrested, committed bad act on her.

The medical evidence of the victim girl, aged about 14 years, dated 24.06.2023, that is, after 14 days of the occurrence, indicates some old genital

injuries over the genitalia suggestive of insertion/penetration etc. committed over a period of time.

So far the present accused petitioner is concerned, the investigation has substantially progressed.

For the above stated reasons and in the backdrop of evidence so far collected, this Court is of the opinion that further continuation of detention of the accused in the interest of investigation is not warranted.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with one surety of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Kamrup (M) at Guwahati** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- 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

Any breach of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant