

GAHC010160712023



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

Case No. : I.A.(CrI.)/698/2023

KAVITA DAS @ KABITA DAS
W/O- SAMIR MOHAN, R/O- DX- 103, OIL HOUSING COLONY, DULIAJAN,
P.S- DULIAJAN, DIST- DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM,
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./2428/2018

KAVITA DAS @ KABITA DAS
W/O- SAMIR MOHAN
R/O- DX- 103
OIL HOUSING COLONY
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DIST- DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR K SAIKIA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

31.08.2023

Heard Mr. A.M. Bora, learned Sr. Counsel appearing for the applicant accused. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

2. By this interlocutory application, the applicant has prayed for modification of the condition No. "e" in Paragraph No.6 of the bail order, dated 11.10.2018, passed in Bail Appln. No.2428/2018 enabling the applicant to leave the jurisdiction of the State of Assam without taking permission from the Special Judge, Assam.

3. Mr. A.M. Bora, learned Sr. Counsel appearing for the accused/applicant, submits that the accused/applicant was granted bail by this Court in connection with Special Case No.02/2017 (arising out of Dibrugarh P.S. Case No.936/2016) vide order, dated 11.10.2018, passed in Bail Application No.2428/2018. Mr. Bora submits that in condition No. (e) of the aforesaid bail order it was directed that

the petitioner would not leave the territorial limits of the trial court without the written permission of the trial court. Mr. Bora submits that the aforesaid condition No.(e) may be suitably modified by allowing the applicant to leave the jurisdiction of the State of Assam without taking permission from the learned Special Judge, Assam. Mr. Bora has cited the following grounds-

“6. That the applicant got married to one Sri Samir Mohan on 12/12/2014 and her husband is an employee of Oil India Limited and is presently posted as Chief Engineer (PSS) in the Inventory Control & Procurement Section of Production Services Support of Oil India Limited and his job profile requires regular travels/prolonged deputations etc. to vendors and plants and further he can be posted anywhere across the Country at urgent notice and the applicant being a housewife needs to accompany and be with her husband.

7. That the applicant begs to state that her father Sri Swapan Kumar Das, is an old ailing person who has undergone complex kidney transplant procedure and his kidney has been donated by her mother Smti Runu Das, as such, the applicant is also required to attend to her parents and is required to accompany them to outside of Assam for advanced treatment, specifically at Apollo Hospitals, Indraprastha, Delhi which again is affected by aforesaid clause "c" of the bail order.”

4. Mr. B. Sarma, learned Addl. Public Prosecutor, submits that in view of the submission made by the learned counsel for the applicant, the prayer for modification may be allowed.

5. It is seen that the order, dated 04.10.2018, passed in Bail Appln. No. 2021/2018 contained the following conditions-

“a. The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts or the case so as to dissuade him to disclose such facts to the Court or to any other authority.

b. They shall remain present before the Court on the dates fixed for hearing of the case. If they want to remain absent, then they shall take prior permission of the court and in case of unavoidable circumstances for remaining absent, they shall immediately give intimation to the appropriate court that they may be permitted to be present through the counsel.

c. They will not dispute their identity as the accused in the case.

d. They shall surrender their passport, if any (if not already surrendered), and in case,

they are not a holder of the same, they shall swear to an affidavit to that effect.

e. They would not leave the territorial limits of the trial court without the written permission of the trial court.

f. They would report before the trial court and the investigating officer once a month, till the investigation in the case is completed and trial commences. The date of such appearance shall be fixed by the Special Judge or the investigating agency as the case may be.

g. The investigating agency/prosecution shall be at liberty to make any application for modification/recalling the order of bail for violation of any condition of bail imposed by this court."

6. Upon hearing the learned counsel for both sides and considering the grounds cited in the petition along with the documents annexed thereto, the prayer for modification/ relaxation as sought for by the accused applicant is allowed.

7. Accordingly, the order, dated 11.10.2018, passed in Bail Appln. No.2428/2018 is modified to the extent that the condition No.(e) contained therein shall stand cancelled.

With the above direction, the interlocutory application stands disposed of.

JUDGE

Comparing Assistant