

GAHC010161292022



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

Case No. : Bail Appln./1976/2022

RAMLOCHAN CHOUDHURY
SON OF LATE JALESWAR CHOWDHARY
R/O VILL- NO. 2 DOIGONG, JUNGLE LINE, P.S. GOLAGHAT, DIST.
GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 16.02.2023

Heard Mr. M. Alom, learned counsel for the petitioner. Also heard Mr. Bhaskar Sarma, learned APP appearing for the State.

2. The petitioner, namely, Ramlochan Choudhury, who was arrested on 10.03.2022, is seeking regular bail under section 439 Cr.P.C. in connection with

Golaghat P.S. Case No. 69/2022, under sections 376D IPC, read with section 6 of the POCSO Act, corresponding to Special POCSO Case No. 25/2022, pending before the Court of learned Special Judge (POCSO), Golaghat.

3. The learned counsel for the petitioner has produced the certified copy of evidence-in-chief and cross-examination of PW.4 and PW.5 and he has submitted that as the victim and the informant have been examined, there is no impediment in releasing the petitioner on bail.

4. The scanned copy of the case record of the learned Court below has been received. The learned APP has perused the same and opposed the prayer for bail.

5. Perused the scanned copy of the case records, which contains the statement of 3 (three) witnesses examined in the Court and the certified copy of the evidence of PW.4 and PW.5 has been produced by the learned counsel for the petitioner. Having perused the scanned copy of the LCR, it is seen that the minor victim has alleged that she has been raped by the petitioner and she was 4 (four) months' pregnant on the date of lodgment of the FIR. The medical report discloses that the minor victim girl was examined on 09.03.2022 and she was found with single life intrauterine fetus in variable presentation at 12 weeks 1 day of gestational age. As per the medical opinion of the doctor, the victim was more than 16 (sixteen) years and below 18 (eighteen) years of age. However, as per the admission register, the date of birth of the victim girl is 2007, as per which, she was then a minor.

6. Accordingly, the Court finds that the victim was sexually assaulted and was made pregnant, and she being a minor, the Court is not inclined to release the petitioner on bail despite the fact that he has been in custody for

last 343 days.

7. In this regard, the Court is guided by the direction laid down by the Supreme Court of India in the case of *Satyendra Kumar Antil Vs. Central Bureau of Investigation, (2012) 1 SCC 40* concerning the minimum period of detention of undertrials.

8. Accordingly, the prayer for bail is rejected at this stage.

9. Registry shall not issue copy (certified/un-certified) of any part of the scanned case diary.

JUDGE

Comparing Assistant