

GAHC010162712023



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

Case No. : Bail Appln./2607/2023

RAIHAN SAIKIA
SON OF LATE RAFIK SAIKIA
R/O VILL- NAGAON
P.S. BAIHATA CHARIALI
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:HARICHARAN DING
S/O LATE KALICHARAN DHING
R/O VILL- PIYALIKHATA
P.S. CHANGSARI

DIST. KAMRUP
ASSA

Advocate for the Petitioner : MR P DAS
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.08.2023

Heard Mr. P. Das, learned counsel appearing for the accused petitioner as well as Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State

respondent and Mr. P. Prawar, learned counsel appearing for the informant.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Raihan Saikia**, has prayed for grant of bail in connection with **Baihata Chariali PS Case No. 201/2023 under Sections 376(3)/354(C)/506 of IPC read with Section 4/12 of POCSO Act.**

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

The F.I.R. reveals the allegation of rape upon the victim girl, who is aged about 17 years by the FIR named accused petitioner.

It is noticed that the accused petitioner has been in judicial custody since 06.07.2023, that is, for 46 days.

The victim girl has refused medical examination.

The victim in her statement under Sections 161 and 164 Cr.P.C. has implicated the accused petitioner with the alleged offences.

The case diary reveals that the alleged offence had taken place sometime in December, 2021 and reported on 05.07.2023 without any explanation.

The informant/father of the victim by an affidavit stated that the matter has been amicably settled between them and as such, he has no objection, if the accused petitioner is allowed to go on bail. The aforesaid affidavit cannot be accepted in law and as such, rejected.

However, on consideration of the pros and cons of the evidence so far collected by the investigating officer, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner, the ongoing investigation into

the incident which took place allegedly in December, 2021 is unlikely to be adversely affected.

Therefore, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 40,000/-** with one surety of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Rangia, Kamrup** 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 petitioner shall refrain from committing any similar offences in future of which he is accused or suspected of commission.

Breach of any of the above conditions shall render cancellation of bail in accordance with law.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant