

GAHC010165472023



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

Case No. : Bail Appln./2655/2023

ABDUR ROSHID
S/O. LT. KOSIMUDDIN DEWANI, VILL. LAKHIPUR, FALIMARI, P.S.
LAKHIPUR, DIST. GOALPARA, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

2:MIZANUR RAHMAN
S/O AYZUDDIN AHMED
R/O VILL. KULAMUYA
CHOTO NICHINPUR
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR. A MANNAF

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 14-09-2023

Heard Mr. A. Mannaf, learned counsel for the petitioner and Mr. J. Hussain, learned

counsel for respondent No. 2 and Ms. A. Begum, learned Addl. P.P. for respondent No. 1.

It is submitted that the learned counsel for respondent No. 2 has submitted Vakalatnama but his name is not represented in the Cause List.

I have considered the submissions at the Bar with circumspection.

It is submitted on behalf of the petitioner that Abul Hussain is the main accused and the respondent No. 2's sister i.e. the victim is already married to the accused No. 1 mentioned in the FIR. A Kabilnama is annexed along with the petition as Annexure-4. It is also submitted that the petitioner has been languishing in the jail for 92 days despite the fact that he is innocent.

The learned Addl. P.P. has raised objection stating that charge-sheet has been laid against the petitioner u/s 457/363/365/376(2)(g)/506/34 of the IPC read with Section 6 of the POCSO Act, 2012. The learned counsel representing the informant has raised no objection.

Charge-sheet had already been laid against the petitioner. A copy of the charge-sheet is also annexed with the petition marked as Annexure-5. The main accused is shown as absconder in the charge-sheet.

It is submitted at the Bar that the victim had a love relationship with the main accused and she eloped with him and at present the victim is married to the main accused and they are blessed with two children.

I have perused the scanned copies of the LCR. I have also perused the statement of the victim u/s 164 Cr.PC as well as the Medico Legal Report of the victim and I have also perused the Case Diary.

It is submitted on behalf of the informant as well as on behalf of the petitioner that the petitioner is at present married to the main accused i.e. the accused No. 1 mentioned in the FIR. It is true that the allegations against the accused are grave and the accused are arrested under heinous offence.

I have considered the submissions at the Bar that the accused will co-operate with the trial and he will not evade appearance. The main accused as well as another accused are still

absconding. It is also submitted at the Bar that the present petitioner will be prejudiced as this case is yet to proceed for trial.

Considering all aspects and in view of my foregoing discussions, petition is allowed.

The petitioner is enlarged on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the trial Court.

The trial Court may impose conditions as the Court deems fit and proper.

JUDGE

Comparing Assistant