

GAHC010166242023



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

Case : Bail Appln./2626/2023

MUKTADUL ISLAM @ MOKTADUL ISLAM
S/O LATE HANIF ALI

VILL.- PECHARKANDI
P.O.- MANULLAPARA
P.S.- SOUTH SALMARA
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 782135.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE P.P.
ASSAM.

2: MOSTAFIZUR RAHMAN
MANAGING DIRECTOR
GYAN VIKSH ACADEMY HATSINGIMARI
P.S.- SOUTH SALMARA
DIST.- SOUTH SALMARA MANKACHAR
ASSAM.

Advocate for : MR. R ALI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 16.08.2023

Heard Mr. M.Z Shah, learned counsel for the accused petitioner as well as Mr. B.Sarma, learned Addl. P.P., Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Muktadul Islam @ Muktadul Islam** has prayed for grant of bail in connection with **South Salmara PS Case No. 217/2023** under Sections 376/354 of the IPC r/w Sections 4/7/8/9/21 of the POCSO Act and also read with Section 67-B of the I.T.Act.

Case diary is received.

Mr. M.Z Shah, learned counsel for the accused petitioner, submits that the accused petitioner has been in judicial custody for 25 days. Mr. Shah further submits that the accused is aged about 21 years and a student of B.Sc. 1st Semester. It is submitted that the accused petitioner, who has no sufficient knowledge about use of social media, unintentionally received some purported objectionable photographs in a Whatsapp group, but did not share with anybody and as such, he committed no offence.

Mr. B Sarmah, learned Additional Public Prosecutor, submits that the case diary reveals that the accused received the purported objectionable photographs and thus, circulated the same.

The FIR reveals the allegation that the informant who is Managing Director of Gyan Vikash Academy, Hatsingimari had come across some objectionable photographs of one Abdul Latif Ahmed who is the teacher of the said Academy along with two girls on social media where some miscreants were involved in plotting to harm the reputation of the institution.

It is noticed that the accused petitioner has been in judicial custody since 22.07.2023, i.e. for 25 days.

The alleged victim girls refused medical examination.

A perusal of the case diary reveals that the accused petitioner is not named in the FIR and there is *prima facie* evidence to show that he received sexually explicit photographs of female students of the said institution in a Whatsapp group. The investigation is, of course, yet to be completed.

In the above backdrop of facts and circumstances, this court is of the opinion that further continuation of the accused petitioner's detention in judicial custody for the purpose of the ongoing investigation is not required.

Therefore, it is provided that the accused/petitioner, named above, shall be released on bail of **Rs. 30,000/-** with one surety of like amount to the satisfaction of the **learned Special Judge, (POCSO Act), South Salmara-Mankachar** 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.

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

This disposes of the bail application.

Return the case diary.

JUDGE

Comparing Assistant