

GAHC010166242023



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

Case No. : Bail Appln./2664/2023

ABDULLAH SK
S/O ABDUL BATEN SK.
R/O VILL- ROGHUPARA
P.S. SOUTH SALMARA IN THE DISTRICT OF SOUTH SALMARA
MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE LEARNED PP, ASSAM

2:MD. MOSTAFIZUR RAHMAN
S/O HAKIM SLI SK.
R/O VILL- COLLEGE NAGAR
HATSINGIMARI
IN THE DISTRICT OF SOUTH SALMARA MANKACHAR
ASSA

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 16.08.2023

Heard Mr. S.Nawaz, learned counsel for the accused petitioner as well as Mr. B.Sarma, learned Addl. P.P., Assam for the State respondent. Also heard Mr. H.R.Choudhury, learned Senior

Counsel for the informant.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **Abdullah Sk** 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. S.Nawaz, learned counsel for the accused petitioner, submits that the accused petitioner has been in judicial custody for 25 days despite being innocent. Mr. Nawaz further submits that the accused is a journalist by profession and presently engaged in ND 24 as a correspondent for Hatsingimari. According to Mr. Nawaz, learned counsel, the petitioner having come across a Facebook post by one Mohibul Mandal Babu regarding sexual relations between a teacher of Gyan Vikash Academy and some minor students sharing some purported obscene photographs thereof, he through inadvertence posted a comment 'Mohibul Zindabad', but later on, came to know his name as Abdul Latif Ahmed, a teacher of the said institution and except this, he did nothing.

Mr. B Sarma, learned Additional Public Prosecutor, submits that the case diary reveals that the accused petitioner commented in the Facebook post and thereby lauded the aforesaid post and disclosed the identity of the educational institution.

The FIR reveals the allegation that the informant who is the Managing Director of Gyan Vikash Academy, Hatsingimari had come across some sexually explicit photographs of one Abdul Latif Ahmed, who is the teacher of the said Academy along with two minor girl students on social media and that some miscreants were involved in illegal activities to bring down the reputation of the said institution.

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

A perusal of the case diary reveals that the accused petitioner commented on the Facebook post given by co-accused Mohibul Mandol, which contained sexually explicit content and lauded it as well as disclosed the identity of the educational institution concerned. The alleged incidents had taken place in the years 2021 and 2022 and reported to police belatedly

on 21.07.2023 by the Principal of the school.

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