

GAHC010168042023



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

Case No. : Bail Appln./2717/2023

NOOR JAMAL HUSSAIN
S/O ASRAF ALI AHMED
R/O CHILLAPARA -PART-II
P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN-783384

VERSUS

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

2:SRI ARUN SINGHA
S/O LT. SAMBHU CHARAN SINGHA
R/O VILL- NO. 2 BARGHOLA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MRS. B GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 04.10.2023

Heard Mr. G. Chamuah, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State/respondent No. 1

and Mr. S.D. Roy, learned counsel for the respondent No. 2/informant.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the petitioner, namely, **Noor Jamal Hussain**, in connection with **N.G.R. Case No. 550/2023 pending before the court of Special Judge, North Salmara, Abhayapuri, Assam**, registered under Section **354(D) of IPC r/w Section 12 of POCSO Act**.

It is submitted by the learned counsel for the petitioner that the petitioner has been detained in custody since 09.07.2023. The petitioner has completed 87 days in jail jazot and only three days remaining to complete the mandatory period of detention in custody. It is also submitted that the allegation made in the FIR as well as the statement recorded under Section 164 Cr.P.C. which does not come under the purview of Section 12 of POCSO Act. Therefore, he has prayed that considering the period of detention, bail may be granted to the petitioner.

In response, Mr. Sarma, learned Additional Public Prosecutor for the State has fairly submitted that considering the period of detention, bail may be considered to the petitioner.

However, Mr. Roy, learned counsel for the informant/respondent No. 2 has submitted that after submission of charge-sheet bail may be considered to the petitioner or completion of mandatory period of detention in custody, the learned trial court will consider the bail prayer of the petitioner.

I have considered the submissions of learned counsel for the parties. I have also perused the case diary including the statement of the victim recorded under Section 164 Cr.P.C., which reveals that the victim is about 14 years of age as per statement of the victim. The victim received a phone call in her mother's mobile from 'Maa Medical' where from the victim and her family members used

to purchase medicines. The allegation against the petitioner is that the petitioner used to send message to the mobile phone of the victim's mother by stating that '*mor logot line mariba, moi tumak bahut bhal pau*' etc. The case was registered under Section 354(D) IPC as well as 12 of POCSO Act which deals with the matter of sexual harassment as provided under Section 11 of POCSO Act.

It is true that the petitioner is about 33 years of age and the victim is around 14 years old girl. It is also not acceptable that the petitioner sent message to a minor girl by proposing to have love with him. However, considering the period of detention and the fact as stated by the victim in her statement recorded under Section 164 Cr.P.C., I am of the view that further custodial interrogation of the petitioner is not required for the purpose of the investigation of the case. Hence, bail is granted to the petitioner.

Accordingly, the petitioner, named above, shall be released on bail in connection with **N.G.R. Case No. 550/2023 pending before the court of Special Judge, North Salmara, Abhayapur, Assam**, registered under Section **354(D) of IPC r/w Section 12 of POCSO Act**, on furnishing bail bond of **Rs.30,000/-** with **two suitable sureties** of the like amount, to the satisfaction of learned Special Judge, Abhayapuri, Bongaigaon.

The direction for bail is further subject to the conditions that the petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, Abhayapuri, Bongaigaon without prior written permission from him/her;

(b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) 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 Court or to any police officer.

(d) shall appear before the Investigating Police Officer once in a week for six weeks after their release on bail as and when called upon by the Investigating Police Officer till the investigation of the case is completed.

In terms of the above, this bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant