

GAHC010169332023



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

Case No. : Bail Appln./2735/2023

KOMAR UDDIN @ KAMAL UDDIN
S/O LATE AZIM UDDIN
R/O VILL- CHOTO-RUPOHI,
P.S. NAGAON (SADAR),
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:JAMIR HUSSAIN
S/O ABDUL HASIM
R/O CHOTU RUPAHI
P.S. NAGAON
SADAR

DIST. NAGAON
ASSA

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

17.10.2023

Heard Mr. N.J. Dutta, learned counsel for the accused petitioner and Mr. B.B.

Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent. Also heard Mr. D. Talukdar, learned counsel for the informant.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Komar Uddin @Kamal Uddin** has prayed for grant of bail in connection with **Special POCSO Case No.24/2023** under Section **6** of the POCSO Act pending in the Court of learned Addl. Sessions Judge, No.-1 cum Special Judge (POCSO), Nagaon arising out of **Nagaon Sadar P.S. Case No. 884/2022**.

The scanned copy of case record, as called for, is placed before the Court.

The allegation made in the FIR is that the accused petitioner committed rape on the minor daughter of the informant aged about 14 years, who worked as domestic help in the house of the accused, by threatening her.

It is noticed the accused petitioner has been in judicial custody since 17.01.2023, that is, for 274 days.

Perusal of the case record shows that in this case charges were framed on 27.03.2023 against the accused petitioner under Sections 376(3)/506 of the IPC read with Section 6 of the POCSO Act. Thereafter, one material witness, namely the victim (PW 1) has already been examined by the learned trial Court. There is a list of 7(seven) prosecution witnesses in the charge-sheet.

This Court is of the opinion that as material witness, that is, the victim has already been examined in the case and as the accused petitioner has been in judicial custody for the last 274 days, if he is released on bail, the remaining part of trial of the case is unlikely to be adversely affected.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand) only** with one surety of like amount to the satisfaction of the learned Special Judge (POCSO

Act), Nagaon subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to 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.

JUDGE

Comparing Assistant