

GAHC010176802023



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

Case No. : Bail Appln./2817/2023

TAJ UDDIN @ TAJIR UDDIN
S/O LT. AKOI MIA VILL. AND P.O. MONOSANGAN P.S. AND DIST.
KARIMGANJ ASSAM PIN 788720

VERSUS

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

2:HUSNA BEGUM
W/O- ABDUL MALIK
VILLAGE AND PO- MONOSANGAN
PS AND DIST- KARIMGANJ
ASSAM
PIN- 78872

Advocate for the Petitioner : MR. A S TAPADER

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 18.12.2023

Heard Mr. P. K. Roy, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure praying for grant of bail to the accused/ petitioner, namely, Taj Uddin @ Tajir Uddin, who has been arrested on 29.06.2023 in connection with Karimganj P.S. Case No. 464/2023, under Section 376(3) of the Indian Penal Code *read with* Section 4 of the POCSO Act.

The scanned copy of the LCR has already been received along with the statement of the victim recorded under Section 164 Cr.P.C. in a sealed cover.

From the records and the Note of the Registry, it also reveals that the notice is served on the respondent No. 2, the informant of this case, through *Dasti* service and the report is also submitted in that regard by the I.O.

It is submitted by the learned counsel for the petitioner, Mr. P. K. Roy, that from the Charge-Sheet as well as the Medical Report, it is very much evident that there is no medical evidence that the accused committed rape on the victim girl. Rather, she refused to go for medical examination, which otherwise establishes that no such offence was committed by the accused, which is

alleged against him. Further he submitted that the accused is behind the bar since 29.06.2023 and hence, considering his length of detention, he should be released on bail.

In this context, the learned Additional Public Prosecutor, Mr. M. P. Goswami, has submitted that though the statement of the victim under Section 164 Cr.P.C. is in the sealed cover, but from the Case Diary and the case record, it reveals that there are sufficient incriminating materials brought by the victim against the present accused showing his direct involvement in the alleged offence. Further he submitted that the evidence of the victim is yet to be recorded and in that situation, if the accused is released on bail, the probability of hampering and tampering the witnesses or influencing the minor victim cannot be denied. Accordingly, he raised objection and submitted that this is not a fit case to allow the accused to go on bail at this stage.

After considering the submissions made by the learned counsels for both sides, I have perused the scanned copy of the case record as well as the Case Diary and also perused the statement of the victim recorded under Section 164 Cr.P.C. From the available statement of the victim, it is seen that there are sufficient incriminating materials against the present accused. Though the case has already been Charge-Sheeted, but from the status of the case, it is seen that the evidence of the victim is yet to be recorded and the matter has been fixed on 20.12.2023 for evidence. As the victim is a minor girl, I find force in the submission made by the learned Additional Public Prosecutor as the probability of absconding or influencing the minor victim cannot out rightly be rejected.

In view of above, I find it not a fit case to extend the privilege of bail to the accused/petitioner at this stage and accordingly, the same stands rejected.

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

The original copy of the statement of the victim recorded under Section 164 Cr.P.C., produced before this Court, be sent back.

JUDGE

Comparing Assistant