

GAHC010180062023



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

Case No. : Bail Appln./2853/2023

YOUSUF ALI LASKAR
S/O- LATE MAYUB ALI LASKAR (PERMANENT ADDRESS) R/O-
DEBASTHAN, P.S. MURAJHAR, DISTRICT- HOJAI, ASSAM, PRESENTLY
RESIDING AT RAJABARI, P.S. JORHAT, DIST.- JORHAT, ASSAM

-VERSUS-

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:RANJIT SARMA
SON OF LATE KRISHNA SARMA
RESIDENT OF RAJABARI, MISSION COMPOUND
P.O. AND P.S. RAJABARI, DISTRICT- JORHAT
ASSAM, PIN- 78501

Advocate for the Petitioner : MS. N KAKOTY

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

15.12.2023

Heard Mr. B. Nath, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam appearing for the State/respondent No.1 and Mr. M. Khan, learned counsel for the informant/respondent No.2.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Yousuf Ali Laskar, who has been detained behind the bars since 14.05.2023 in connection with Jorhat P.S. Case No.150/2023 under Section 376AB of Indian Penal Code read with Section 6 of POCSO Act, 2012 on the basis of which Special (POCSO) Case No.20/2023 has been registered which is pending before the Court of learned Additional Sessions Judge cum Special Judge, Jorhat.

Learned counsel for the petitioner has submitted that the petitioner is a senior citizen and has been detained behind the bars since 14.05.2023 and is ready to co-operate in his trial and therefore, the petitioner may be allowed to go on bail.

Learned Additional Public Prosecutor, Assam has vehemently opposed the grant of bail to the present petitioner at this stage. He has submitted that as the charges are already framed against the present petitioner under Section 376AB of the Indian Penal code and Section 6 of the POCSO Act, 2012, the victim as well as the informant are required to be examined before consideration of the application of bail of the present petitioner.

Similar submission has been made by Mr. M. Khan, learned counsel for the informant/respondent No.2.

Though it appears that the present petitioner is an aged person of 60 years and has been detained behind the bars since 14.05.2023, however, considering the nature of the allegations levelled in the FIR against him and the age of the victim girl who is only 7 years and the manner in which the alleged offence has been committed, this Court is of the considered opinion that examination of the victim girl and the informant should be completed before consideration of the prayer for bail of the present petitioner.

Hence, the prayer for bail of the present petitioner is rejected at this stage.

The petitioner is free to approach the learned Trial Court after examination of the victim girl as well as the informant for consideration of his bail application.

With the above observations and directions, this bail application is disposed of.

JUDGE

Comparing Assistant