

GAHC010181882023



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

Case No. : Bail Appln./2911/2023

RAJ KUMAR CHAUHAN
S/O- RAM BAHADUR CHOUHAN, PERMANENT RESIDENT OF VILL.-
BHETAPAR NEPALI GAON, KHERONI, P.O. KHERONI, P.S. HAMREN,
DIST .WEST KARBI ANGLONG, ASSAM, PIN- 782448.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM

2:MONGAL SINGH KRAMSA
S/O- BIRENDRA SINGH KRAMSA
R/O- VILL.- JIRIBASA KARBI GAON
P.S. KHERONI
P.O. ULUKUNCHI
DIST. WEST KARBI ANGLONG
ASSAM
PIN- 782413

Advocate for the Petitioner : MR N N UPADHYAYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

11.12.2023

Heard Mr N N Upadhaya, learned counsel for the petitioner, Raj Kumar Chauhan.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail as he is in jail since 27.04.2023 in connection with Special (POCSO) Case No. 12/2023, arising out of Kheroni PS Case No. 38/2023, under Section 376 (3) IPC, read with Section 4 of the POCSO Act.
3. Notices were issued to the respondent No. 2 through dasti service. An affidavit has been filed, stating that notices have been served to respondent No. 2, through the Officer-In-Charge of jurisdictional Police Station.
4. The respondent No. 2 is not represented today.
5. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam/respondent No. 1.
6. It is submitted that the petitioner is a young lad of only 22 years and he has to appear in his examination on 15.12.2023. An additional affidavit has been submitted stating that his B.A. examination is scheduled to be held from 05.12.2023. It is admitted that the petitioner had a love relationship with the victim, but now, the tables have been turned against him and a false case has been lodged by the informant. The petitioner has denied that he had committed any offence of sexual assault.
7. It is also submitted that the medico legal report reveals that the victim is above 17 years, but below 18 years.
8. The learned Additional Public Prosecutor has raised serious objection stating that the statement of the victim reveals that the petitioner had harassed her and also had threatened her. Serious objection against the bail petition has been raised stating that three witnesses have been examined, but the evidence of the victim is yet to be recorded. There is every possibility that releasing the petitioner on bail will be a threat to the

victim and the petitioner may exercise threats and the evidence may be tampered with.

9. I have considered the submissions at the Bar with circumspection. I have also perused the scanned copies of the LCR.

10. I have considered the submission that the petitioner has been in jail since 27.04.2023.

11. I have also considered the submission that the petitioner will appear in his B.A. Examination, which has already commenced from 5th of December, 2023.

12. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- (Rupees Fifty Thousand) only, with a suitable surety of the like amount, to the satisfaction of the learned Special Judge (POCSO), West Karbi Anglong, Hamren, under the conditions that:-

- i) the petitioner will not go near the vicinity of the victim,
- ii) the petitioner will not exercise threats to the victim and other witnesses,
- iii) the petitioner will not tamper with the evidence,
- iv) the petitioner shall not leave the jurisdiction of the Court without prior permission from the jurisdictional Court, till completion of trial.

On breach of any of the bail conditions, the bail order shall stand cancelled.

13. Bail Application stands disposed of.

JUDGE

Comparing Assistant