

GAHC010183252023



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

Case No. : Bail Appln./2918/2023

MALEKA BEGUM
S/O MAJNUR ALI
R/O MUKALMUA
P.S. MUKALMUA
DIST. NALBARI, ASSAM

VERSUS

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

2:HANIF ALI
S/O LT. MIYA CHAN ALI
R/O VILL- MUKALMUA
P.S. MUKALMUA
DIST. NALBARI
ASSA

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

12.09.2023

Heard Mr. B. Chowdhury, learned counsel appearing for the accused petitioner

as well as Mr. B.B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

Paragraph No.1 of the Additional Affidavit filed by the petitioner shows that notice was duly served on the respondent No.2/informant by dasti service on 08.09.2023 vide Annexure-A. However, none has entered appearance on behalf of the respondent No.2 on call.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Miss Maleka Begum** has prayed for grant of bail in connection with **Mukalmua P.S. Case No. 376/2023** under Sections **109/120B/376/ 506/201** of the IPC read with Section **6** of the POCSO Act, 2012.

The case diary, as called for, is placed before the Court.

The prosecution case, in brief, is that about 6 (six) months ago from the date of lodging the F.I.R. the present accused petitioner took the minor daughter of the informant aged about 14 years to stay with her at night. At about 8 p.m., she gave her a glass of milk dissolving some intoxicated tablet therein and called one Mohibur Ali and offered him to rape the victim. It is alleged that said Mohibur Ali raped the victim and threatened her not to disclose the matter to anyone. The victim became 6 months pregnant at the time of lodging of the F.I.R.

It is noticed that the accused petitioner has been in judicial custody since 31.07.2023, that is, for 44 days.

The medical documents of the victim shows that the skeletal age of the victim from radiological evidence estimated is above 16 years and below 17 years. She is reported to be at 29 weeks of gestation not consistent with recent sexual assault or intercourse.

Perusal of the case diary shows prima facie incriminating material against the accused petitioner. The victim in her statements recorded under Sections 161 and 164

Cr.P.C. has stated to be aged about 15 years old and she implicated the accused petitioner as the abettor of the offences alleged to have been committed by the prime accused.

Considering the pros and cons of the materials available on the case diary as well as the length of detention of the accused petitioner, this Court finds that her further continuation of detention in the interest of the ongoing investigation may not be required.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand) only** with one surety of like amount to the satisfaction of learned **Special Judge (POCSO) Act, Nalbari** subject to the following conditions-

i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and

ii) That the accused petitioner 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 Police Officer or the Court.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant