

GAHC010184352023



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

Case No. : Bail Appln./2944/2023

AJMAL HOQUE AND ANR
S/O SAFIKUL ISLAM
R/O JAMUNA MOUDANGA,
KRISHIPAM NIGAM,
P.S. MURAJHAR,
DIST. HOJAI, ASSAM

2: PARBINA BEGUM
D/O SAFIKUL ISLAM
R/O JAMUNA MOUDANGA

KRISHIPAM NIGAM

P.S. MURAJHAR

DIST. HOJAI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:MD. SAHJAHAN ALI
S/O - LATE ABDUL REZZAK MUNSHI
VILL - JAMUNA MOUDANGA KRISHIPAM NIGAM
PS - MURAJHAR DIST- NAGAON
ASSA

Advocate for the Petitioner : MR. N ANAND

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 14.09.2023

Heard Mr. N Anand, learned counsel for the accused petitioners as well as Mr. B.Sarma, learned Addl. P.P., Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Ajmal Hoque and 2. Parbina Begum** have prayed for grant of bail in connection with **Murajhar PS Case No.162/2023** under Sections 120B/342/370 (4)/372 of IPC r/w Section 6 of POCSO Act r/w Section 75 of the Juvenile Justice Act.

The petitioner has filed affidavit as regards service of notice on the respondent No.2.

But none appeared on behalf of respondent No.2

The case diary is placed before the Court.

Mr. N Anand, learned counsel for the accused petitioners, submits that both the accused petitioners are brother and sister respectively and they were not even remotely involved in the alleged crime. It has been submitted that the accused petitioners along with the informant went to Dehradun and recovered the victim girl. Therefore, Mr. Anand submits that if the liberty of bail is granted to them, they undertake to co-operate in investigation.

Per contra, Mr. B Sarmah, learned Addl.Public Prosecutor, submits that there are sufficient incriminating material against both the accused petitioners and as such, their bail application may be rejected.

The FIR reveals allegation that the minor daughter of the informant was engaged in prostitution by the present petitioners at Dehradun with a false promise to give her work in a private hospital in Delhi.

It is noticed that both the accused petitioners are in judicial custody since 04.07.2023, that is for 72 days.

As per school certificate, the date of birth of the victim girl is 10.07.2007 and accordingly, her

age as on the month of alleged occurrence that is in February, 2023 she was approximately aged about 16 years.

A perusal of the statements of the victim girl recorded under Sections 161 and 164 CrPC has implicated the accused petitioner No. 2 with the alleged offences. She is projected to be the prime accused person in the case. Therefore, this Court is of the opinion that if the liberty of bail is granted to her at the present stage of investigation, the ongoing investigation is likely to be adversely affected.

Accordingly, the bail application of the accused petitioner No.2, namely, **Parbina Begum** stands rejected.

So far, the bail application of the accused petitioner No. 1 is concerned, it appears from the case dairy that he resisted the informant from prosecuting his sister, the accused petitioner No.2 for the alleged offences. The victim girl has not implicated him in the alleged offences in her statement under Sections 161 and 164 CrPC.

In the overall backdrop of facts and circumstances and considering the length of detention of the accused petitioner No. 1, Ajmal Hoque (72 days) in judicial custody, this Court is of the considered opinion that his further continuation of detention in the interest of investigation is not warranted.

Accordingly, it is provided that the accused petitioner No. 1, **Ajmal Hoque**, shall be released on bail of **Rs. 40,000/-** with one surety of like amount to the satisfaction of the learned **Jurisdictional Court**, subject to the following conditions- :

- (i) That the accused petitioner No.1 shall cooperate with the Investigating Officer as and when required;
- (ii) That the accused petitioner No.1 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;
- (iii) That the accused petitioner No.1 shall refrain from committing any similar offence of which he is accused of commission.

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

This disposes of the bail application.

Return the case diary.

JUDGE

Comparing Assistant