

GAHC010191522022



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

Case No. : Bail Appln./2415/2022

LAMESWAR DOLEY
S/O- LT. MOTON DOLEY, R/O- SOMKONG PAGRO, P.O. AND P.S. SIMEN
CHAPORI, DIST.- DHEMAJI (ASSAM)

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MRS A BUJARBARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.01.2023

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Ms. R. Deka, learned counsel for the accused/applicant and also heard Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

This application under Section 439 of the Cr.P.C is preferred by accused,

namely, **Lameswar Doley**, who has been languishing in jail hazot in connection with **Special (POCSO) Case No. 69(JN)/2022**, arising out of Simen Chapori P.S. Case No.27/2022, under Sections 376/506/313/34 of IPC read with Section 6 of POCSO Act, 2012. The above case has been registered on the basis of an FIR lodged by the informant Smti. X (name withheld) on 10.07.2022, to the effect that while she has been pursuing her H.S. 2nd year in Simen Chapori Junior College, and on 11.08.2021, Lameswar Doley, Clerk of Simen Chapori Junior College has raped her in the library room of the college on five occasions, while she came for admission and also threatened to kill her and her family members, if she disclose the matter to them and he repeated it for 5 times. As a result, she become pregnant and as per his instruction, his friend Jagadish Pegu aborted her pregnancy with the help of Dr. Ranjit Pegu and Jagadish Pegu also rapped her on two occasions.

Mr. H.R.A. Choudhury, learned Senior counsel for the accused submits that the accused was arrested on 11.07.2022, and since then he has been languishing in jail custody for last 183 days and out of 9 (nine) witnesses, cited in the Charge Sheet the learned Court below has examined all the nine witnesses and the victim girl has already been examined and in view of her evidence, so brought on record, the learned Senior Counsel submits that no case is made out against the accused and therefore, it is contended to allow the petition.

On the other hand, Mr. R.J. Barua, learned Addl. P.P. referring to the evidence of the victim girl who has been examined as PW-4 by the learned Court below, fairly submits that in her evidence before the Court the victim girl has not implicated the accused with the offences.

Having heard the submissions of the learned Advocates of both sides, I have carefully gone through the petition and also perused the evidence of the witnesses examined by the learned Court below.

Considering the evidence so brought on record specially the evidence of the victim girl, who has already been examined by the learned Court below as PW-4, without making any comment upon merit of the same, this Court is of the view that a case for granting bail is made out. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- (Rupees fifty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, POCSO, Dhemaaji the accused namely, Lameswar Doley, be enlarged on bail.

The above privilege is however subject to the following three conditions –

- (i) the accused should not leave the jurisdiction of learned Special Judge, POCSO, Dhemaaji without prior permission and
- (ii) the accused shall appear before the learned Court below on each and every date.

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

JUDGE

Comparing Assistant