

GAHC010201342023



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

Case No. : AB/3155/2023

MAHIBUL MONDAL
S/O KRBAN ALI MONDAL
R/O VILL- FULERCHAR PART-I, P.S. SOUTH SALMARA, DIST. SOUTH
SALMARA MANKACHAR, ASSAM

VERSUS

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

2:MD. MOSTAFIZUR ROHMAN
S/O HAKIM ALI SK.
R/O VILL- COLLEGE NAGAR
PS. HATSINGIMARI
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20-12-2023

Heard Mr. M. Ahmed, learned counsel for the petitioner and Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the

petitioner viz. Mahibul Mondal has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with South Salmara Police Station Case no. 217/2023 registered under Sections 376/354, Indian Penal Code [IPC] r/w Sections 4/7/8/9/21 of the Protection of Children from Sexual Offences [POCSO] Act, 2012 r/w Section 67B of the Information Technology Act, 2000, as amended.

3. The First Information Report [FIR] was lodged by the Managing Director of one Gyan Vikash Academy, Hatsingimari alleging *inter alia* that some objectional photographs involving one Abdul Latif Ahmed, an Assistant Teacher in the said Educational Institution, along with two girls got viral on social media.

4. The petitioner is not named as an accused in the said FIR. It has, however, been revealed that the incident involving the teacher of the said Educational Institution had been circulated by the petitioner in the social media. From the post so circulated in the social media, it does not go to indicate that the petitioner has named any person in the said post uploaded in the social media.

5. The petitioner has been extended interim protection by an order dated 15.09.2023, with the condition that the petitioner should appear before the Investigating Officer [I.O.] of the case within a period of 7 [seven] days from 15.09.2023.

6. Mr. Lahkar, learned Additional Public Prosecutor who has produced the case diary, has submitted, on the basis of the materials on the case diary, that the petitioner has already appeared before the I.O. of the case in compliance of the direction made in the interim order dated 15.09.2023.

7. From the materials in the case diary, it does not go to indicate that there is any involvement of the petitioner in respect of the offences registered under the provisions of the Indian Penal Code and the POCSO Act, 2012. The only allegation against the petitioner is in respect of the offence under Section 67B of the Information Technology Act, 2000, as amended. As the petitioner has already appeared before the I.O. of the case and thereby,

joined the investigation, the custodial interrogation of the petitioner is not found necessary for carrying out further investigation of the case, provided the petitioner continues to extend his assistance and cooperation in the further investigation of the case. Accordingly, the interim protection granted to the petitioner by order dated 15.09.2023, is hereby made absolute, subject to the following conditions :-

- [i] the petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer [I.O.] of the case;
- [ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- [iii] the petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police; and
- [iv] the petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected.

8. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant