

GAHC010204962023



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

Case No. : Bail Appln./3230/2023

SHIBA PRASHAD NATH @ SIBO PRASHAD
S/O- SABARAM NATH, VILLAGE- TITAPARA, P.S. BAGUWAN, DISTRICT-
GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 05.10.2023

Heard Mr. F. Haque, learned counsel for the petitioner and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 439 Cr.P.C., filed by the petitioner, namely Shiba Prashad Nath @ Sibbo Prashad seeking bail who was arrested on 03.09.2023 in connection with Jogighopa P.S. Case No. 224/2023

(Corresponding to N.G.R. Case No. 680/2023) under Section 376 IPC read with Section 67 of I.T. Act.

It is submitted by the learned counsel for the petitioner that the victim is a major girl and the petitioner and the victim fell in love and the victim had maintained physical relationship with the petitioner according to her own will for which section 376 IPC is not attracted here in this case.

It is further submitted by the learned counsel for the petitioner that there is no question of uploading any obscene photos of the victim in the instagram as the petitioner has no instagram account in his home. It is also submitted that the victim got married to other boy. The learned counsel for the petitioner has also submitted that the petitioner has been in judicial custody since 03.09.2023 without any reason and under such back drop the petitioner may be released on bail.

The learned Addl. PP on the other hand, has opposed in granting bail to the petitioner by stating that the victim has implicated the petitioner in her statement recorded under Section 164 of the Cr.P.C. in the alleged offence.

I have perused the case diary. I have also perused the statement of the victim girl recorded under Section 164 Cr.P.C.

It is seen from the case diary that the victim is a major girl and she maintained physical relationship with the petitioner at her own volition. The case diary shows that substantial part of the investigation has been completed.

Under the facts and circumstances of the case, the prayer for bail is allowed.

Accordingly, it is directed that the accused/ petitioner above named, be released on bail in connection with Jogighopa P.S. Case No. 224/2023 (Corresponding to N.G.R. Case No. 680/2023) under Section 376 IPC read with

Section 67 of I.T. Act on furnishing a bond of Rs. 50,000/- (Rupees fifty thousand) with 2 (two) suitable sureties of like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate (M), North Salmara, Abhayapuri.

The direction for bail is further subject to the conditions that the accused-petitioner:

- (a) shall not leave the territorial jurisdiction of the learned Sub-Divisional Judicial Magistrate (M), North Salmara, Abhayapuri, without prior written permission from him/ her;
- (b) shall not hamper with the investigation and tamper with the evidence of the case; and
- (c) 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/ her from disclosing such facts to the Court or to any police officer.

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

Return the case diary.

JUDGE

Comparing Assistant