

GAHC010205032022



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

Case No. : Bail Appln./2593/2022

ARUP BARMAN
S/O JITEN BARMAN
R/O VILL- OWAHAT
P.S. LALUK
DIST. LAKHIMPUR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 10-02-2023

Heard Ms. S.G. Baruah, learned counsel for the petitioner as well as Mr. R.J. Baruah, learned APP for the State.

2. The petitioner, namely, Arup Barman, who was arrested on 09.06.2022 in connection with Special (POCSO) case no. 60(JN)/2022 under section 366 IPC

read with section 6 of POCSO Act, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned APP has perused the scanned copy of the case diary and has opposed the prayer for bail.

4. On perusal of the records, it appears that on 11.08.2022, charge sheet was submitted against the petitioner under section 366 IPC read with section 6 of the POCSO Act. The medical report in respect of the petitioner discloses that he is a visually challenged person by birth. The victim girl in her statement made under section 164 Cr.P.C. has exonerated the petitioner committing sexual assault on her, while the victim also says that she has eloped voluntarily with the petitioner.

2. Under such circumstances, when the victim has denied any sexual assault on her in her statement made under section 164 Cr.P.C., the Court is of the considered opinion that further custodial interrogation of the petitioner may not be necessary and moreover, it also does not appear to be a fit case for conducting a trial by keeping the petitioner inside the judicial custody. Accordingly, the Court is inclined to grant bail to the petitioner namely, Arup Barman on bail on furnishing a bail bond of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties of like amount to the satisfaction of the learned Special Judge, Dhemaji. Out of two bailors, one should offer his/ her immovable property as security for grant of bail.

Bail is granted on the following conditions:

1. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
2. The 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 Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. The petitioner shall not obstruct the smooth progress of the trial/ investigation.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall not jump over the bail.
6. The petitioner shall once again appear before the IO once in 15(fifteen) days and she shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
7. Along with the bail bond, the petitioner shall also submit an undertaking before the learned trial Court on all date without fail, further undertaking that in the event he cannot appear on any particular date he shall ensure that he is represented by his learned counsel and he shall not dispute his identity and the identity of the witnesses on the date which the petitioner is absent before the trial Court.
8. If the petitioner is found violating any conditions mentioned above, it would be open to the learned Special Judge (POCSO), Dhemaji to issue NBWA to ensure speedy trial.

7. Application disposed of.
8. Case diary is returned.

JUDGE

Comparing Assistant