

GAHC010208442022



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

I.A.(CrI.)/645/2022

JATIN PANGING
S/O BADIRAM PANGING
R/O LIGRIBARI
DISANGMUKH
P.S.- SIVASAGAR
DIST.- SIVASAGAR
ASSAM.

VERSUS

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

2:SRI DINESH PANGING
S/O- LT HOISRE PANGING
R/O- DISANGMUKH
LIGIRIBARI
P.S.SIVASAGAR
DIST. SIVASAGAR
PIN-785640

Advocate for : MR P KATAKI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : --19.04.2023

- 1.** Heard Mr. P. Kataki, learned counsel for the appellant/applicant. Also heard Mr. P. Borthakur, learned Addl. P.P. for respondent No. 1 and Mr. D. Chakraborty, learned counsel representing respondent No. 2.
- 2.** The applicant Jatin Panging has filed an application under Section 389(2) of the Cr.PC. The applicant was convicted vide judgment & order dated 11.08.2022 in Sessions Case No. 5(S-S)/2021 under Sections 448 IPC and sentenced to undergo Simple Imprisonment for 1 year and he was convicted under Section 376 IPC and sentenced to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 10,000/- and in default of payment of fine to undergo Rigorous Imprisonment for 6 months.
- 3.** I have considered the submissions at the Bar. The victim has filed an affidavit stating that she has no objection if the petitioner is enlarged on bail. It is also submitted through the affidavit that some exaggerated version was deposed by her during trial under compelling circumstances which was beyond her control.
- 4.** The learned Addl. P.P. has raised serious objection against the bail petition stating that the applicant is convicted under a serious offence and this case is proved against him beyond reasonable doubt.
- 5.** It is submitted on behalf of the applicant that the evidence of the victim clearly reveals that she was closely acquainted with the applicant. The evidence of the victim reveals that applicant expressed his love for her and the victim used to chat with the applicant. Her husband was not present at the time of the incident but her children were at home and it is not possible for anybody to commit rape on a woman in presence of her children. After the alleged incident when the applicant was leaving, the victim's sister-in-law allegedly saw the applicant coming out from the victim's house. It is also submitted that the evidence of the victim does not inspire confidence because she has stated that the police has seized the torn

blouse. The seizure list clearly reveals that a black coloured blouse was seized. It is not mentioned in the seizure list that the blouse was torn. The victim was immediately examined after the incident by the doctor, but no injuries were detected. It is also submitted that the petitioner will be present and he will oblige with the decision of this Court after the appeal is disposed of.

6. In view of my foregoing discussions, the applicant is enlarged on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the trial Court and the trial Court may impose conditions which he or she deems fit and proper. The operation of the conviction and sentence vide judgment & order dated 11.08.2022 passed by the learned Additional Sessions Judge, Sivasagar in Sessions Case No. 5(S-S)/2021 is suspended until further order(s).

In terms of the above, the petition is disposed of.

JUDGE

Comparing Assistant