

GAHC010211872023



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

Case No. : Bail Appln./3324/2023

ZIABUR RAHMAN @ JIABUR RAHMAN
S/O IDRISH ALI R/O DHARMAPUR BLOCK P.S. LALUK DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REP .BY THE PP, ASSAM

2:TUFAIJUL HAQUE
S/O HARMUJ ALI R/O DHARMAPR BLOCK P.S LALUK DIST. LAKHIMPUR
PIN 78416

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13.10.2023

Heard Mr. A Choudhury, learned counsel for the accused petitioner as well as Mr.

D.P.Goswami, learned Additional Public Prosecutor, Assam for the State respondent No1. Also heard Ms. S.G.Baruah, learned counsel for respondent No.2.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Ziabur Rahman @ Jiabur Rahman** has prayed for grant of bail in connection with **Special POCSO Case**

No.96/2023 under Section 366/376D of the IPC r/w Section 4 of the POCSO Act pending in the court of learned Special Judge, Lakhimpur, North Lakhimpur arising out of Laluk PS Case No.49/2023.

The scanned copy of the case records is received.

The learned counsel for the petitioner, submits that FIR was lodged against one Sofiullah who is the husband of the victim girl. The learned counsel for the petitioner further submits that the present petitioner is in judicial custody for 80 days and as such, considering the length of detention, the prayer for bail of the petitioner may be considered.

The learned Additional P.P., submits that considering the period of detention, prayer for bail may be considered. Learned counsel for the respondent No. 2 submits that as the charge sheet has been submitted , trial is going on, she has no objection in granting bail provided his regular presence before the court below.

On perusal of the case records, it reveals that the statement of the victim was recorded u/s 164 CrPC wherein the victim has alleged that the present petitioner along with Sofiullah had kidnapped her. It is also alleged that the petitioner along with Sofiullah sexually assaulted her. Subsequently, the victim got married with Sofiullah and as per her statement, she was living with Sofiullah for 3 years in Arunachal Pradesh. The medical report reveals that she was sexually assaulted by her own husband.

Having heard the learned counsel for the parties and on perusal of the case records and also considering the length of detention of the petitioner in judicial custody for 80 days, bail is hereby granted to the petitioner.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/- with one surety** of like amount to the satisfaction of learned **Special Judge (POCSO) Lakhimpur at North Lakhimpur**, subject to the following conditions:

- i) That the petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of; and
- ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any of the prosecution witnesses.

The learned Special Judge (POCSO) is at liberty to impose any other condition (s) at the time of releasing the petitioner on bail to procure his attendance during trial.

This disposes of the bail application.

JUDGE

Comparing Assistant