

GAHC010215072023



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

Case No. : Bail Appln./3433/2023

BRITOM HAZARIKA @ BABU @ BITROM HAZARIKA
S/O TONKO HAZARIKA
R/O ABANI NO. 2,
DERGAON, P.S. DERGAON,
DIST. GOLAGHAT, ASSAM
PIN-785614

VERSUS

KIRON DOWARA AND ANR
R/O VILL- TIMONA JILIGURI
P.S. LAHOWAL
DIST. DIBRUGARH, ASSAM
PIN-786010

2:THE STATE OF ASSAM

REP. BY THE PP
GOVT. OF ASSA

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

10.11.2023

Heard Mr. S. Dewri, learned counsel for the accused petitioner. Also heard

Mr. R.R. Kaushik, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Britom Hazarika @Babu @Bitrom Hazarika** has prayed for grant of bail in connection with **POCSO Case No.76/2023** arising out of **Lahowal P.S. Case No. 75/2023** under Sections **366/376(3)** of the IPC read with Sections **6/14** of the POCSO Act, 2012 read with Section **9** of the Prohibition of Child Marriage Act, 2006, pending in the Court of learned Special Judge (POCSO Act), Dibrugarh.

The scanned copy of case record, as called for, is placed before the Court.

The FIR reveals the allegation that on 30.01.2022, the accused petitioner kidnapped the minor daughter of the informant aged about 14 years by enticing her and married her. After one week of their marriage, the accused petitioner started beating her using lathi and dragged her by holding her hair and tortured her physically and mentally. After two months, the victim returned to her parental home. It is also alleged that the accused petitioner had been trying again to take away the victim and published morphed naked photos of her in social media and verbally abused and threatened her.

It is noticed that the accused petitioner has been in judicial custody since 13.05.2023, that is, for 182 days.

Perusal of the case record shows that the learned trial Court vide order, dated 25.07.2023 had framed charges against the accused petitioner under Sections 366/376(3) of the IPC read with Sections 6/14 of the POCSO Act, 2012 read with Section 9 of the Prohibition of Child Marriage Act, 2006. Thereafter, material witnesses, that is, the informant and the victim are already examined in

the case. There is a list of 10(ten) prosecution witnesses in the charge-sheet. This Court is of the opinion that if the accused petitioner is released on bail, the remaining part of trial is unlikely to be hampered.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand) only** with one surety of like amount to the satisfaction of the learned **Special Judge (POCSO Act), Dibrugarh** subject to the following conditions-

- i) That the accused 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 accused petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant