

GAHC010218042023



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

Case No. : Bail Appln./3448/2023

SAEED AHMED
S/O ISRAFIL ALI
PRESENT RESIDENT OF PRESENT
SUNDARBARI, KAZIRANGA PATH
NEAR SANSKRITI COLLEGE
P.S. JALUKBARI
DIST. KAMRUP (METRO),
PERMANENT ADDRESS- SANTIPUR
P.S. MIKIRVITA
P.S. MIKIRVITA
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2: MUKTAL HUSSAIN
S/OLATE DANEJ ALI
R/O SUNDARPARA
PART-IV

P.S. FAKIRGANJ
DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR P K KALITA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

11.10.2023

Heard Mr. G. Chamuah, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor, Assam.

This bail application has been filed by the petitioner, namely, Saeed Ahmed , seeking bail in connection with Jalukbari P.S. Case No.511/2023 registered under Sections 363/366/343 of the IPC read with Section 6 of the POCSO Act. The petitioner was arrested on 28.08.2023.

Learned counsel for the petitioner submits that an FIR dated 28.08.2023 was lodged by the informant, who is the father of the victim, alleging that the accused persons kidnapped the daughter of the informant and forcefully committed physical relationship with her. Pursuant to the said FIR, investigation commenced and the petitioner was taken into custody.

Learned counsel for the petitioner submits that daughter of the informant and the petitioner were known to each other and they were in a relationship since few months back and the daughter of the informant had voluntarily come out with the petitioner. There was no forceful abduction of the informant's girl as alleged in the FIR.

By order dated 27.09.2023 this Court had called for the case diary and accordingly, Mr. B. Sarma, learned Additional P.P. has produced the case diary.

Perusal of the case diary reveals investigation has progressed to some extent and the statements of the victim recorded under Section 164 Cr.P.C. is also available. In her statement under Section 164 Cr.P.C she had stated that the petitioner is known to her and they were in a relationship. She further stated that on the said date she had voluntarily come out with the petitioner on his motorcycle. It is further stated that she eloped with the petitioner because her parents and other family members had taken a decision to marry her off with some other person. She denied having any physical relationship with the petitioner. The victim girl has refused to be medically examined and the same is found recorded in the report submitted by the Superintendent/ Police Surgeon, GMCH. The signature of the victim girl on the said report that she does not wish to medically examine is also available.

Considering the progress of the investigations being carried on and also taken into account the statements recorded during the course of the investigation and also taking note of the submissions made by the learned counsel for the informant who submits that the parties have resolved the dispute and have agreed to marry off the petitioner and the victim girl upon the victim girl reaching the age of majority, this Court is inclined to allow the bail application.

The petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with 2 (two) local sureties of like amount subject to the satisfaction of the Additional Sessions Judge-cum-Special Judge, POCSO, Kamrup(M). The bail granted however, is subjected to the following conditions:

1. That the petitioner shall appear before the Investigating Officer once a month and co-operate with the Investigating Officer as and when required, till completion of investigation;
2. That the petitioner shall not hamper or tamper with the investigation in any manner;
3. That 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 the Court or to any police officer; and
4. That the petitioner shall not change his residence without obtaining prior written permission from the concerned Court.

If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancelation of the bail granted to the petitioner.

With the above direction, the bail application stands disposed of.

JUDGE

Comparing Assistant