

GAHC010219852023



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

Case No. : Bail Appln./3479/2023

NIPAN HAZARIKA @ NIPON HAZARIKA
S/O SRI AJIT HAZARIKA
VILL- ROUMARI BANGALI
P.S. DHEKIAJULI
DIST. SONITPUR ASSAM

VERSUS

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

2:MOUSUMI BORAH
W/O HARKANTA BORAH
VILL- ROUMARI BANGALI
P.S. DHEKIAJULI
DIST. SONITPUR
ASSA

Advocate for the Petitioner : MR M R ADHIKARI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 10.10.2023

Heard Mr. M.R.Adhikari, learned Counsel for the petitioner as well as Mr. B Sarma, learned Addl.Public Prosecutor for the State respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Nipan Hazarika @ Nipon Hazarika** has prayed for grant of bail in connection with **Dhekiajuli P.S. Case No. 168/2023** under Sections 448/506 of the IPC r/w Sections 8/12 of POCSO Act (GR Case No. 564/2023).

The FIR, dated 30.08.2023 lodged by informant, who is the mother of victim girl alleged that on 26.08.2023, while she had proceeded to Tezpur for dental treatment of her husband, her daughter, aged about 10 years stayed with her aunt. Subsequently, her aunt also went away due to some work and she was asked to go with her cousin to her cousin's house. Since her school examination was ensuing, she did not go with her cousin but instead stayed at home for preparing for examination. It is alleged that the petitioner taking opportunity of the absence of family members at home came to the informant's house and tortured her physically and mentally. It is also alleged that daughter of the informant informed her that she managed to escape from the clutches of the petitioner only by locking herself in the washroom attached to their bedroom. Even then the petitioner tried to open the door of the washroom. However, due to presence of people in the locality, he fled away. Thereafter, the petitioner again came to the house of the informant and asked her daughter to open the door stating that her father has asked her to go with the petitioner but the victim refused to accede to the demand of petitioner and did not open the door and remain inside the house. It is also alleged that the petitioner threatened the victim of dire consequence if she disclosed anything to her father or mother. Under such circumstance, FIR was lodged requesting for investigation and in taking action against the petitioner. The said FIR was registered as Dhekiajuli P.S. Case No. 168/2023 under Sections 448/506 of the IPC r/w Sections 8/12 of POCSO Act (GR Case No. 564/2023).

During the course of the investigation, the petitioner was arrested and he has been in custody since his date of arrest. Thereafter, a bail petition was moved before the special Court (POCSO), Sonitpur, Tezpur by the petitioner which was also rejected on 15.09.2023. The petitioner then approached this court praying for bail.

The case diary as called for by the earlier order of this Court has been received and produced before the court.

The case diary received has been carefully perused.

The statement of the victim under Section 164 CrPC reveals serious allegations against the petitioner by the victim girl. From the statements made under Section 164 CrPC, it is seen that the victim girl alleged physical abuse at the hands of the petitioner. The details of the statements of the victim recorded under Section 164 CrPC are not extracted in this order but the same are available in the case diary which is produced before the Court.

From the perusal of the case diary, it is seen that her statements made before the investigating officer and the statements made under Section 164 Cr.P.C have been consistent. The victim girl aged about 10 years refused to undergo medical examination. Although no medical examination was conducted on the victim, the statements made by the victim under Section 164 Cr.P.C are found to be specific and consistent. She had given graphic details of physical abuse suffered by her at the hands of the petitioner. The matter is still under investigation.

Taking into account the age of the victim girl and also that the families of the petitioner and

the victim girl are related and known to each other as it is seen from the pleadings, this court is not inclined to grant the prayer for bail by the petitioner at this stage of investigation.

Accordingly, the bail application is rejected.

Case diary be returned.

The bail application stands dismissed accordingly.

JUDGE

Comparing Assistant