

GAHC010221592023



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

Case No. : Bail Appln./3504/2023

MOTIBUR RAHMAN @ MOJIBUR RAHMAN AND ANR
S/O- FAIZUDDIN, R/O- VILLAGE- NO.2 DHARMAPUR, SUBUR TINIALI, P.O.
DHARMAPUR, P.S. LALUK, PIN- 784160, DIST.- LAKHIMPUR, ASSAM

2: FAIZUL ISLAM
S/O- KUTUB UDDIN
R/O- VILLAGE- NO.2 DHARMAPUR
SUBUR TINIALI
P.O. DHARMAPUR
P.S. LALUK
PIN- 784160
DIST.- LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM

2:JASMINA BEGUM @ JESMINA BEGUM
D/O- MD. ZIABUR RAHMAN @ JIABUR RAHMAN
R/O- VILLAGE- NO.2 DHARMAPUR
SUBUR TINIALI
P.O. DHARMAPUR
P.S. LALUK
PIN- 784160
DIST.- LAKHIMPUR
ASSA

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 13.10.2023

Heard Ms. S.G Baruah, learned counsel for the petitioners as well as Mr. D.P.Goswami, learned Addl. P.P., Assam for the State respondent No.1. Mr. A Khan, learned counsel appears for the respondent No. 2.

By this petition under Section 439 Cr.P.C., the petitioners, namely, **1. Motibur Rahman @ Mojibur Rahman and 2. Faizul Islam** have prayed for grant of bail in connection with **Laluk PS Case No.147/2023 (GR No. 729/2023)** under Sections 354A/326/325/506/34 of the IPC r/w Section 8 of POCSO Act.

It is submitted by the learned counsel for the petitioners that prior to filing of present FIR, the petitioners have lodged another FIR alleging that father of the informant along with two other persons committed the offence of rape for which a case has been registered against them and the present FIR lodged by the victim is a counter blast of the said FIR and as such, the petitioners may be granted the privilege of pre-arrest bail.

The learned Addl.P.P. has fairly submitted that the statement under Section 164 CrPC of the victim was recorded but there is no specific allegation against the present petitioners that they have committed such offence which falls under Section 8 of POCSO Act. The injury report of the father of the victim reveals simple injury.

Case diary is placed before the court.

I have perused the case diary as well as the statements of the victim u/s 164 CrPC which reveals that on 24.07.2023, at about 10 pm, when the victim girl came out of her room for nature's call, at that time, Md. Abu Taher, Md. Abdul Kalam and Md. Motibur @ Majibur took her backside of their house and torn her wearing apparel and when she called her father, Faizul assaulted him. The medical report of the father of victim is available on record and it reveals that he sustained simple injury.

Having heard the learned counsel for the parties and on perusal of documents annexed with

the bail application, the prayer for bail of the petitioners is allowed.

Accordingly, it is provided that the petitioners, named above shall be released on furnishing bail of **Rs. 30,000/- (Thirty Thousand)** with one surety of like amount **each** to the satisfaction of the learned **Special Judge (POCSO Act), North Lakhimpur, Lakhimpur,** subject to the following conditions- :

- I) That the petitioners shall cooperate with the Investigating Officer as and when required;
- Ii) That the petitioners 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 Police Officer or the Court; and
- iii) That the petitioners shall not hamper or tamper with the investigation in any manner.

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

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant