

GAHC010222132023



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

Case No. : Bail Appln./3510/2023

ABDUR RAHMAN @ RINKU
S/O ABDUS SUKUR
VILL- RAKYASIAI PART-II
P.S. MORNOI
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 24.11.2023

Heard Mr. F. Haque, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Abdur Rahman @ Rinku* who has been detained behind the bar since 03.04.2023 in connection with Sessions Case

No. 188/2023 under Section 341/376D of the Indian Penal Code.

The learned counsel for the petitioner has submitted that the petitioner is facing trial before the Court of learned Additional Sessions Judge, Goalpara in Sessions Case No. 188/2023. It is also submitted by learned counsel for the petitioner that though the petitioner has been detained behind bar for last more than seven months i.e., since last 03.04.2023 and though the charges against him were framed on 11th July, 2023 and not even a single witness has been examined. It is further submitted that the Court has not even issued summons to the victim woman and though on 02.11.2023, three nos. of prosecution witnesses had appeared before the learned Trial Court, however, they were not examined and another date is fixed for their examination. Learned counsel for the petitioner has further submitted that other three co-accused persons are already on bail. The learned counsel for the petitioner further submits that the petitioner is ready to cooperate in his trial, if he is allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has vehemently opposed the grant of bail to the present petitioner on the ground that the offence involved in this case is of gang rape under Section 376D of the Indian Penal Code and the present petitioner is one of the prime accused in this case. It is further submitted by learned Additional Public Prosecutor that though the incident in this case occurred way back in the year 2017, however, due to default by the present petitioner on two occasions, the case has not proceeded any further.

I have considered the submissions made by learned counsel for the petitioner as well as learned Additional Public Prosecutor.

It appears that the offence involved in this case is of heinous nature and it also appears that on earlier occasions, the case got delayed due to absence of the present petitioner and only after his arrest the charges could be framed against

all the accused persons. It also appears that the victim has not yet been examined. Learned counsel for the petitioner submits that even the summons were not issued to the victim.

Considering the nature of offence involved as well as past conduct of the petitioner in this case, this Court is not inclined to grant bail to the present petitioner at this stage, hence, the prayer for bail of the present petitioner is rejected at this stage.

However, it is hereby made clear that after examination of the victim girl, the petitioner may approach the learned Trial Court and may pray for regular bail before the learned Trial Court which would be considered on its own merit by the learned Trial Court.

It is also directed that if the learned Trial Court has not yet issued summons to the victim, the learned Trial Court would issue summons to the victim girl and would make all endeavour to examine the victim as early as possible.

With the above observation, this bail application is disposed of.

JUDGE

Comparing Assistant