

GAHC010230142023



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

Case No. : Bail Appln./3643/2023

SHAIKHUL ALOM
S/O RAFUKUL ISLAM
R/O VILL- CHANDMAMA
P.S. KALGACHIA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

16.10.2023

Heard Mr. A. K. Hussain, learned counsel for the applicant and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 439 Cr.P.C. is preferred by the accused Shaikul Alom, who has been languishing in jail hazot since 04.09.2023, in connection with Jalukbari P.S. Case No. 527/2023, under Sections 354/354 D 509/34 IPC for grant of bail.

3. The above noted case has been registered on the basis of an FIR lodged by Pankaj Kalita on 04.09.2023.
4. The essence of allegation made in the FIR is that on 04.09.2023 at about 7-10 PM the accused molested one girl, namely, Smti 'X' outside her hostel, RCC-V while she was proceeding towards Gauhati University market.
5. Mr. Hussain, learned counsel for the accused submits that the accused is behind the bar for last 43 days and that after rejection of the first bail application on 27.09.2023, the Investigating Officer got sufficient time for investigation and in the meantime, the investigation might have been completed and that the father of the accused has attempted to commit suicide as he has been suffering neuropsychiatric disorder and in support of the same Mr. Hussain has referred to page no. 23 (Annexure-5) of the petition and that, the accused is ready to face trial and, therefore, it is contended to allow this petition.
6. Whereas Mr. P. Borthakur, learned Additional Public Prosecutor has vehemently opposed the petition on the ground that no new ground has been assigned by the accused for filing this second application and that the Investigating Officer has collected sufficient incriminating materials and the case is pending for arrest of one of the co-accused.
7. However, Mr. Borthakur submits that the Investigating Officer has achieved substantial progress in the investigation of the case.
8. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Borthakur, learned Additional Public Prosecutor.
9. It appears that the earlier bail petition for the accused was rejected by this Court after perusing the case diary on 27.09.2023 and, thereafter, more than 20 days elapsed and the Investigating Officer got sufficient time for investigation of this case. Further, it appears that the Investigating Officer has achieved substantial progress in the investigation of the case.
10. Having considered above and also considering the period of detention (43 days) and balancing the same with the nature and gravity of offence, this Court is of the view that further custodial detention of the accused may not be required in the interest of investigation. And therefore, this Court is inclined to allow this bail petition. Accordingly, it is provided that on furnishing a bond of Rs.50,000/- (Rupees Fifty Thousand) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (Metro), the accused be enlarged on bail.

11. In terms of the above, the petition stands disposed of. The case diary be returned.

JUDGE

Comparing Assistant