

GAHC010232662023



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

Case No. : Bail Appln./3704/2023

MD. MAJBUL ALI
S/O LATE TAMAJ ALI
R/O VILL- SIOT KUCHI, SIMALUBARI
P.S. GORESWAR DIST. BAKSA, ASSAM

VERSUS

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

2:JUNUMA BEGUM
D/O RASID ALI
R/O BALIKUCHI
P.S. BAIHATA CHARIALI

DIST.KAMRUP
ASSA

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

09.11.2023

Heard Mr. N. Ahmed, learned counsel for the petitioner. Also hard Mr. D.

Das, learned Additional Public Prosecutor, Assam.

2. This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Md. Majbul Ali, who has been detained behind the bar since 27.06.2023 (since last 136 days) in connection with PRC Case No. 1503/2023 pending before the Court of learned Judicial Magistrate First Class, Kamrup (M) corresponding to Hatigaon P.S. Case No. 07/2015 under Sections 120(B)/376(F) of the Indian Penal Code.

3. The accusation in this case is that on 09.01.2015, the victim / informant, who is the step-daughter of the present petitioner, lodged an FIR before the O/C of Hatigaon Police Station, Guwahati *inter alia* alleging that she was subjected to repeated forcibly sexual intercourse by the present petitioner. After completion of the investigation, charge sheet was led against the present petitioner and one more co-accused under Sections 376(F)/120(B) of the Indian Penal Code. The case is still pending before the learned Committal Court as the attendance of other co-accused could not yet be procured. The learned counsel for the petitioner has submitted that the petitioner is ready to face trial on any condition imposed by this Court.

4. On the other hand, learned Additional Public Prosecutor, Assam has produced the scanned copy of the case records of PRC Case No. 1503/2023 and has opposed the grant of bail to the present petitioner on the ground that the offence involved in this case is heinous in nature and the victim is the own step-daughter of the present petitioner and there is every likelihood that the petitioner may try to influence the victim i.e. own step-daughter and therefore, the learned Additional Public Prosecutor prays that the prayer of bail of the present petitioner may be considered by the learned Committal Court only after examination of the victim girl.

5. I have considered the submissions made by the learned counsel for both the sides and having gone through the scanned copy of the case records of PRC Case No. 1503/2023. Considering the nature of the offence involved in this case and also considering the fact that the petitioner is the step-father of the victim girl, I find force in the submissions made by the learned Additional Public Prosecutor fair and reasonable.

6. This Court therefore, does not intend to give benefit of bail to the present petitioner at this stage and leave it on the petitioner to move the learned Committal Court / Trial Court making prayer for bail before the said Court at appropriate stage.

7. With the above observation, this bail application stands disposed of.

JUDGE

Comparing Assistant