

GAHC010233632023



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

Case No. : Bail Appln./3703/2023

NIPEN DAS
S/O LT. TULSI DAS R/O GARGARA P.S PALASHBARI DIST KAMRUP R
ASSAM AND AT PRESENT R/O SANTIPUR PUBALI PATH C/O RAKTIM
GOSWAMI P.S. BHARALUMUKH GUWAHATI 9 DIST. KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

16.10.2023

Heard Mr. N. Alam, learned counsel for the accused and Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Sri Nipen Das**, who is languishing in jail hazot, in connection with the **Bharalumukh P.S. Case No. 302/2023**, under Section 354 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Smti 'X' [name withheld] on 01.10.2023. The essence of allegations made in the FIR is that on the previous night, at about, 10 pm, she went to purchase water from a shop nearby her rented house in Purbali Path, then the owner of the shop namely, Nipen Das suddenly came over her and started abusing her physically and touched her private parts.

4. Mr. Alam, learned counsel for the accused submits that the accused was arrested on 01.10.2023, and since then he has been languishing in jail hazot for last 15 days and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor has produced the case diary before this Court and submits that though the investigation has progressed substantially and the I.O. has, in the meantime, examined 3/4 witnesses, yet, the accused has admitted having committed the offence and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused has been arrested in this case on 01.10.2023, and since then, he has been languishing in jail hazot for last 15 days. Further it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case.

8. In view of above, this Court is of the view that further custodial detention of the accused seems to be unwarranted here in this case and

accordingly it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup (M) at Guwahati**, the accused be enlarged on bail.

8. In terms of above, this bail application stands disposed of.
9. The case diary be returned.

JUDGE

Comparing Assistant