

GAHC010240102022



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

Case No. : Bail Appln./3222/2022

ABDUL GONI SK
S/O SUKUR ALI
R/O VILL- PECHARKANDI,
P.S. MANKACHAR, DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

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

2:TALUKJAN BIBI
W/O BULAL HUSSAIN
VILL- PECHARKANDI
P.O. MANULIAPARA
P.S. MANKACHAR

DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

06-01-2023

Heard Mr. M. Khan, learned counsel for the accused-petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State Respondent.

This application under **Section 439** of the Code of Criminal Procedure has been preferred by the accused-petitioner, namely, **Abdul Goni Sk**, who has been languishing in jail hajot in connection with **Mankachar Police Station Case No.291/2022**, under **Sections 363/342/354(B)** of the **Indian Penal Code, 1860**, read with **Section 8 of the POCSO Act**, for grant of bail.

The said case has been registered on the basis of an FIR lodged by one Talukjan Bibi on 16-09-2022, to the effect that on 01-09-2022, at about 9.30 am, while her daughter Smti. X (name withheld), aged about 8 years, was proceeding to the Manullapara L.P. School, the accused seduce her and took her to his house, confined her in his room, and showed her porn video in his mobile and, thereafter, subjected her to sexual assault.

The learned counsel for the accused-petitioner submits that the accused-petitioner is behind the bar for last 60 days and this case being registered under Section 8 of the POCSO Act, the accused is entitled to default bail and there is no ground for filing charge-sheet under Section 6(1) of the POCSO Act.

On the other hand, Mr. Baruah, learned Additional Public Prosecutor, referring to the materials available on record of the learned Court below, which was called for by this Court, and specially referring to the statements of the victim, recorded under Section 161 as well as Section 164 of the Cr.P.C., submits that this is a clear case under Section 6(1) of the POCSO Act and, therefore, it is contended to dismiss the petition.

Having heard the submissions of the learned counsel for the parties,

I have carefully gone through the petition and also perused the scanned copy of the records received from the learned Court below.

It appears that though the case has been registered under Section 363/342/354(B) of the Indian Penal Code, read with Section 8 of the POCSO Act, yet after investigation, the Investigating Police Officer laid charge-sheet against the accused under Section 6(1) of the POCSO Act.

In view of the materials collected by the Investigating Police Officer, during investigation, especially after perusing the statement of the victim recorded under Section 161 as well as Section 164 of the Cr.P.C., this Court is of the view that no case for granting of bail is made out at this stage.

Accordingly, the prayer for bail is **rejected** and the petition is dismissed.

JUDGE

Comparing Assistant