

GAHC010243232022



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

Case No. : Bail Appln./3265/2022

SUJIT DAS AND ANR.
S/O LT. TAJENDRA DAS
R/O VILL- HEMNAGAR
P.S. TEZPUR,
DIST. SONITPUR, ASSAM

2: SMTI. MAMPI MANDAL @ SHANKARI DAS
W/O SUJIT DAS
R/O VILL- HEMNAGAR
P.S. TEZPUR
DIST. SONITPUR
ASSA

VERSUS

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

2:S.I. MADAN BORAH
S/O JEBA KANTA BORAH
R/O VILL- MOTHIASIGA
P.O. NAZIRA DIST. SIVASAGAR
ASSAM
PRESENTLY HOLDING THE POST OF S.I BANDARDEWA O.P

Advocate for the Petitioner : MR. L MOHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.01.2023.

Heard Mr. L. Mohan, learned counsel for the accused. Also heard Mr. RJ Baruah, learned Addl. P.P., Assam, for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by two accused, namely, Sri Sujit Das and Smti Mampi Mandal @ Shankari Das, who have been languishing in jail hazot since 07.11.2022, in connection with the Special (POCSO) Case No.95/2022, arising out of Bihpuria P.S. Case No.150/2022, under Sections 120(B)/372/373/376(3) of the IPC, read with Section 6 of the POCSO Act, for grant of bail.

The aforementioned case has been registered on the basis of an FIR, lodged by SI Mohan Borah on 08.08.2022, to the effect that he received information that some illegal prostitution business is being run in the Oyo Hotel, situated on the top floor of Ganga Palace Building in Upper Bandardewa Out Post area, through various minor as well as adult girls, inside the said Hotel. Then conducting search in the said Hotel, he recovered one minor girl namely, Jomali Karmakar from Room No.102 of the said Hotel and came to know that Sangkari Das sold the minor girl to accused Robi Paul and accused Firdus Ahmed purchased her from Robi Paul.

Mr. L. Mohan, learned counsel for the accused submits that the accused are husband and wife and they have one small baby and they are behind the bar for last 64 days and they are ready to participate in the trial and therefore, it is contended to allow the petition.

On the other hand, Mr. RJ Baruah, learned Addl. P.P., Assam, referring to the

record of learned Court below, submits that there are sufficient materials to show the complicity of the accused persons with the offence charged and the same are serious in nature and therefore, Mr. Baruah contended to dismiss the petition.

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 scanned copy of the case record, received from the learned Court below.

It appears that both the accused are languishing in the jail since 07.11.2023, and the investigation has already been completed and charge sheet has been submitted by the I.O. and the case is pending for appearance of other accused persons.

However, having regards to the nature of accusation and the punishment prescribed for the same and also considering the role played by the accused persons in committing the offence, this Court is of the view that this is not a fit case, where the privilege of bail can be extended to the accused at this stage and therefore, the petition stands dismissed.

In terms of above, the bail petition stands disposed of.

JUDGE

Comparing Assistant