

GAHC010244862023



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

Case No. : Bail Appln./3908/2023

MUSSTT AJBINA KHATUN AND ANR
W/O MD. SOFIQUL ISLAM
R/O SALPARA, DOGAON
P.S. JURIA
DIST. NAGAON, ASSAM

2: MD. ABDUL KALAM
S/O LATE AHED ALI
R/O BARUNGURI
P.S. JURIA
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE LEARNED PP, ASSAM

2:MD. RUHUL AMIN
S/O LATE AHED ALI
R/O BARUNGURI
P.S. JURIA
DIST. NAGAON
ASSAM
MOBILE NO. 801131411

Advocate for the Petitioner : MR. S M MOLLAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 16.11.2023

Heard Mr. S.M. Mollah, learned counsel for the petitioners. Also heard Mr. N.P. Goswami, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioners, namely, **Musst. Ajbina Khatun and Md. Abdul Kalam**, in connection with **Special POCSO Case No. 104/20187(in connection with Juria P.S. Case No. 266/2016)**, registered under Section 366(A)/34 of IPC r/w Section 6 of POCSO Act, pending in the court of learned Addl. District and Sessions Judge, No. 1 cum Special Judge, Nagaon.

It has been submitted by the learned counsel for the accused-petitioners that the petitioner Nos. 1 and 2 are the married sister and father of the prime accused namely Md. Sadik Mehedi Alom. It is alleged that with the help of the petitioners, the prime accused kidnapped the minor daughter of the informant. It is also submitted that both the petitioners are available in their respective houses during investigation while the police visited the place. Subsequently, the investigating officer had shown the petitioners as absconder in the charge-sheet. During trial, warrant of arrest was issued against the petitioners and the petitioners No. 1 was arrested on 04.10.2023 and since then she has been languishing in jail hazot. Thereafter, the petitioner No. 2 has surrendered before the learned trial court and since then he has been languishing in jail hazot. It is further submitted that the petitioners are no way involved in this case. Under such backdrop, petitioners may be enlarged on bail.

In response, Mr. Goswami, learned Additional Public Prosecutor for the

State vehemently opposed in granting bail to the petitioners by stating that as per statement of the victim recorded under Section 164 Cr.P.C., the petitioners have pressurized the victim to marry main accused. Considering the background of the case, bail may not be granted to the petitioners at this stage of trial.

I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of LCR.

It appears that trial is going on and the petitioner No. 2 has surrendered before the learned trial court and the petitioner No. 1 was also arrested. It transpires that they are available in their respective houses.

Considering the background of the case as well as the materials available against the petitioners, the accused-petitioners, named above, shall be released on bail in connection with **Special POCSO Case No. 104/20187(in connection with Juria P.S. Case No. 266/2016)**, on furnishing bail bond of **Rs.30,000/-** each with one suitable surety each of the like amount to the satisfaction of learned Addl. District and Sessions Judge, No. 1 cum Special Judge, Nagaon.

The direction for bail is further subject to the condition that the accused-petitioners:

(a) shall not leave the territorial jurisdiction of learned Addl. District and Sessions Judge, No. 1 cum Special Judge, Nagaon, without prior written permission from him/her;

The learned Addl. District and Sessions Judge, No. 1 cum Special Judge, Nagaon, is at liberty to impose any condition(s) as it deems fit and proper at the time of releasing the accused/petitioners on bail to procure their attendance during trial.

The observation made above, shall confine for the purpose of disposal of

this bail application only and shall not in any way affect the proceeding of the trial.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant