

GAHC010244962022



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

Case No. : Bail Appln./3306/2022

BITTU DEB
S/O LT. DIPAK DEB
R/O VILL- ANANDA PALLY
P.S. LUMDING, IN THE DISTRICT OF HOJAI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.01.2023

Heard Mr. S. Das, learned counsel for the accused and Mr. R.J. Barua, 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, Bittu Deb, who has been languishing in jail hazot in

connection with the Special POCSO Case No. 62[H]/2022 arising out of Lumding PS Case No. 99/2022 under section 8/12 of the POCSO Act, for granting bail.

3. The aforementioned case has been registered on the basis of one FIR lodged by the informant Smti X [name withheld] on 04.06.2022, to the effect that on 03.05.2022 at about 7 pm she was returning home and on the way she used to talk with Sourav Barman and then accused, Bittu Dev forcefully entered them into a room and took their photographs and video and started blackmailing them and touched her inappropriately and threatened them to make the video and photographs viral in the social media and he also attempted to commit rape upon her on 04.06.2022.

4. Mr. Das, learned counsel for the accused submits that after completion of investigation and IO has laid charge sheet against the accused, being charge sheet NO. 61/2022 under sections 8/12 of the POCSO Act, along with one accused, Shuvam Das. Mr. Das further submits that the co-accused has not yet turned up and therefore, trial has not yet commenced and the accused has been languishing in jail for last 218 days, and therefore, it is contended to enlarge the present accused on bail.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor, submits that on account of non appearance of the co-accused, trial has not yet begun and the case has been fixed on 29.12.2022, for appearance for the co-accused by the learned court below.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the materials placed on record and also perused the scanned copy of the record received from the learned court below.

7. It appears from the charge sheet that charge sheet has been laid against the accused, Bittu Dev and Shuvam Das to stand trial in the court under sections 8/12 of the POCSO Act. The case is pending at the stage of appearance, as the other co-accused is yet to turn up. The accused is behind the bar for last 218 days. Since the charge sheet has already been submitted, the question of hampering the investigation

and tempering the witnesses does not arise.

8. Having regard to above, and also having regard to the period of detention, this court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- only, with one surety of like amount to the satisfaction of the learned Special Judge, POCSO Act, Hojai Sankardev Nagar, the accused be enlarged on bail.

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

JUDGE

Comparing Assistant