

GAHC010247252022



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

**Case No. : Bail Appln./3329/2022**

MOHIBUL ISLAM  
S/O MD. KAMAR UDDIN, R/O METHIGAON, P.S.-MURAJAHR, DIST-HOJAI,  
ASSAM, PIN-782445

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. M U MONDAL**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 16.02.2023**

Heard Mr. M.U. Mondal, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned APP appearing for the State.

By this application under Section 439 Cr.P.C., the petitioner, namely, Mohibul Islam, who was arrested on 27.08.2022, is seeking regular bail in

connection with Morigaon PS Case No. 170/2020 under Section 363/376/342/325/307/34 IPC read with Section 9/10/11 of Prohibition of Child Marriage Act read with Section 6 of the Protection of Children from Sexual Offences Act.

The learned APP has referred to the case records and has opposed the prayer for bail. It is also submitted that the charges has not yet been framed against the accused and moreover, victim girl has also not been examined till date.

Pursuant to the order dated 20.01.2023, the learned APP has produced the FSL report dated 12.10.2022.

On a perusal of the case records, it appears that the statement of the victim girl has been recorded under Section 164 CrPC. It is seen that the victim has not implicated the petitioner of sexually assaulting her. Moreover, it also appears that the sample of blood of the victim girl, the child born to her and the petitioner were collected for forensic examination and as per the forensic examination report dated 12.10.2022, the DNA of the child matched with the victim girl, but the DNA of the child did not match with the petitioner.

Under such circumstances, the Court is of the considered opinion that further custodial interrogation of the petitioner is not required. Accordingly, this Court is inclined to release the petitioner named above on bail in connection with the case aforementioned on furnishing bail bond of Rs.1,00,000/- with two solvent surety of like amount to the satisfaction of learned Special Judge (POCSO), Morigaon. Out of two sureties, one should offer as security his/her immovable property having sufficient value to cover the bail amount. The bail is granted on the following conditions:

1. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses.
2. That he shall not obstruct the smooth progress of the trial.
3. That the petitioner shall not misuse his liberty in any manner.
4. That the petitioner shall not jump over the bail.
5. The petitioner shall appear without fail on all dates of the trial and in the event he cannot appear for good reasons, he would make sure that he is represented by his learned counsel and he would also give an undertaking that he would not dispute his own identity or the identity of the witnesses which were examined in his absence.
6. In the event of default in appearance, it would be open to the learned trial Court to issue NBWA to compel appearance of the petitioner.

This bail application stands disposed of.

The Registry shall not issue any copy (certified or un-certified) of the scanned copy of case diary.

**JUDGE**

**Comparing Assistant**