

GAHC010249392023



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

Case No. : Bail Appln./4014/2023

MANJIL ISLAM
S/O RAJAB ALI
VILL- NO. 2 BORKUR,P.S. BHURAGAON
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:RABIA KHATUN
W/O A. KUDDUS
VILL- BALIDUNGA

P.S. BHURAGAON

DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 18.12.2023

Heard Mr. J. Ahmed, learned counsel for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure praying for grant of bail to the accused/ petitioner, namely, Manjil Islam, who has been arrested on 25.03.2023 in connection with Bhuragaon P.S. Case No. 39/2023, under Section 377 of the Indian Penal Code *read with* Section 6/12 of the POCSO Act.

The scanned copy of the LCR along with the Case Diary has already been received and I have perused the same.

Mr. J. Ahmed, learned counsel for the petitioner, submits that the accused is innocent and false allegation has been brought against him only to harass him due to some land dispute and family dispute. Apart from that, the present accused is an Imam of a Masjid where the father of the victim was earlier used to work as an Imam. After his appointment as an Imam, the dispute arose between the parties along with other family disputes as well as the land dispute. Further he submitted that the accused is behind the bar since 25.03.2023 and hence, considering his length of detention also, he may be enlarged on bail. He is a permanent resident of his addressed locality and he will regularly appear before the Court on each and every date to be fixed by the Court.

In this context, learned Additional Public Prosecutor, Ms. N. Das, has submitted that there is serious allegation brought against the present accused and from the Medical Report also, it is seen that there was a swelling and redness in the anal region of the victim which is unnatural. Further she submitted that the victim is yet to be examined and hence, being an Imam of the Masjid, there is every probability of influencing the victim and hence, she raised objection in granting bail to the accused.

Mr. M. K. Hussain, learned counsel appearing on behalf of the respondent No. 2, also subscribe to the submission made by the learned Additional Public Prosecutor and also raised same objection and submitted that the victim is only a 10 years old boy and hence, he may be influenced by the accused, who is otherwise an Imam of a Masjid and therefore, till completion of the evidence of the minor victim, the accused should not be allowed to go on bail.

After considering the submissions made by the learned counsels appearing for the parties, I have perused the case record and the statement of the victim as well as the mother of the victim recorded under Section 164 Cr.P.C. From the statement of the victim as well as the mother of the victim, it is seen that the accused committed repeated sexual offence with the minor boy as well as he also sexually assaulted the mother of the victim.

In view of above and also considering the entire circumstances of this case and the age of the minor victim, I find that the probability of hampering or tampering as well as influencing the minor victim cannot be denied at this stage

and hence, I do not find it justified to allow the accused to go on bail at this stage and accordingly, the present bail application stands rejected.

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

JUDGE

Comparing Assistant