

GAHC010250152023



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

Case No. : Bail Appln./4032/2023

BHUPEN DEKA
SON OF SHADANANDA DEKA @ HADANANDA DEKA, RESIDENT OF
VILLAGE- BORKURIHA, P.S. NALBARI, DISTRICT- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

23.11.2023

Heard Mr. B.K. Mahajan, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Bhupen Deka, who has been detained behind the bars since 29.10.2023 (since last 25 days) in connection with Belsor P.S. Case No. 261/2023.

The accusation against the present petitioner in this case is that on 15.10.2023, the victim/informant has lodged an FIR, *inter-alia*, alleging that the husband of the first informant, namely, Islam Ali has been subjecting the petitioner to torture in different ways and she has been compelled to pay to the husband of the petitioner by selling her own body.

It is alleged in the petition that the husband of the informant asked the first informant to go to Delhi with an unknown youth and the said person committed physical relationship with the informant and in lieu of the same, Rs. 6, 00,000/- (Rupees Six Lakhs) were paid by the said unknown youth. Later on, the informant came to know about the name of the said person to be Sri Bhupen Deka, that is the present petitioner.

Mr. B.K. Mahajan, learned counsel for the petitioner submits that no date of alleged offence has been mentioned in the FIR, however, he submits that on 10th March, 2023, the petitioner had accompanied the informant and her daughter to Delhi and they returned back on 12th March, 2023 and during their stay at Delhi, nothing had happened as alleged in the FIR.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Belsor P.S. Case No. 261/2023 and has submitted that the Investigating Officer has recorded the statement of witnesses and the statement of victim has also been recorded under Section 164 of the Code of Criminal Procedure, 1973.

I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record. It appears from

the record that the FIR in this case has been lodged after a delay of about 7 months and main allegations levelled in the FIR is against the husband of the first informant. It also appears from the materials available on record that the victim appeared to have visited Delhi along with the present petitioner in the month of March and after staying there for about four days they returned back to Guwahati by flight and the daughter of the first informant also accompanied them.

It also appears while the informant was in Delhi along with the petitioner on the day after the alleged incident occurred, they also went together to visit other places in Delhi and thereafter came back to Guwahati by flight. However, at that time no hue and cry was raised by the informant and from the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973, it appears that she only suspects that she was subjected to physical relationship and she also suspects that her husband has sold her to the petitioner.

Considering the fact that the statement of the victim has already been recorded under Section 164 of the Code of Criminal Procedure, 1973, and also considering the fact that the petitioner is a permanent resident of Borkuriha Village under Nalbari Police Station and he is willing to co-operate in investigation and also considering the period of detention already undergone by the present petitioner, his further detention does not appear to be necessary for fair completion of the Belsor P.S. Case No. 261/2023.

In view of the above, the above-named petitioner, is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Nalbari with conditions that:-

- (i) the petitioner shall appear before the Investigating Officer of Belsor P.S.

Case No. 261/2023 as and when so required by the Investigating Officer for the sake of completion of fair investigation of Belsor P.S. Case No. 261/2023;

(ii) the petitioner shall not directly or indirectly make any inducement threat or promise to the victim or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

(iii) the petitioner shall not leave the State of Assam without prior leave of the learned Chief Judicial Magistrate, Nalbari, during the pendency of the investigation of Belsor P.S. Case No. 261/2023.

With the above observations, this bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant