

GAHC010250782023



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

Case No. : Bail Appln./4062/2023

SIDDIK ALI
S/O NISHAN ALI
VILL- BAMUNER ALGA
P.S. SONARI RIVER
DIST.GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 06.12.2023

Heard Mr. M.H. Ahmed, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the petitioner, namely, **Siddik Ali**, in connection with **Sessions Case No. 148/2023**, registered under Section **366/365 /370(2)/376(2)(m)/120B IPC**, pending before the Court of **learned Sessions Judge, Barpeta**.

It has been submitted by the learned counsel for the petitioner that the petitioner has been languishing in jail hazot for the last 6(six) months. It is also submitted that at present, the trial is going on and the victim has already been examined. As such, there is no question of tempering the evidence of the witnesses. It is further submitted that during examination of the victim before the learned trial court, she did not support the prosecution case. Considering the background of the case as well as period of detention, bail may be granted to the petitioner.

Ms. Jahan, learned Additional Public Prosecutor for the State has pointed out the demeanor of the victim noted down by the trial court and subsequently when she was examined by the trial court, she did not support the prosecution case.

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

It reveals that the evidence of the victim was recorded by the learned trial court, wherein she stated that in the month of February, 2023, she fled away with the petitioner and went to Guwahati. She was kept in a room at Guwahati. Thereafter, she was taken by the petitioner to Hariyana with a promise to get marry.

After that the learned trial court had noted down the demeanor of witness as the court felt that she was threatened by anyone. In spite of repeated inquiry, whether she has been threatened by anyone to which she replied negative but the trial court stated that her response did not appear to her to be very convincing. As such, the Magistrate stopped the recording the statement of the victim on that day. Subsequently, after 12 days, when the victim was again examined before the learned trial court, she did not support the prosecution

case and the witness was declared hostile on the request of the public prosecutor. The victim admitted her averments while her statement was recorded under Section 164 Cr.P.C. by the learned Magistrate.

It is seen only the victim was examined in the case out of 11 witnesses. It appears from the record that the petitioner has been languishing in jail hazot since 14.05.2023.

Considering the fact as well as the length of detention of the petitioner, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary in the interest of investigation of the case.

Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Sessions Case No. 148/2023**, registered under Section **366/365 /370(2)/376(2)(m)/120B IPC**, on furnishing bail bond of **Rs.50,000/- each with two suitable sureties** each of the like amount out of which one of the sureties should be a Government employee, to the satisfaction of learned Sessions Judge, Barpeta.

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

(a) shall not leave the territorial jurisdiction of learned Sessions Judge, Barpeta, without prior written permission from him/her;

The learned Sessions Judge, Barpeta is at liberty to impose any condition(s) as it deems fit and proper at the time of releasing the accused/petitioner on bail to procure his 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