

GAHC010251032022



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

Case No. : Bail Appln./3472/2022

BIPLAB DAS
S/O PRALHAD DAS
R/O VILL- BOR LAOGAON, P.O. KALLAGURI, P.S. BIJNI
DIST. CHIRANG, BTR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. P BASFORE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

03.01.2023

Heard Mr. B. Sarkar, learned counsel for the accused and Mr. B.B. Gogoi, learned Addl. P.P. for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is

preferred by accused, namely, Biplab Das, who has been languishing in jail hazot since 29.11.2022, in connection with the Bijni P.S. Case No. 184/2022, under Sections 354[A]/506 of the IPC read with section 10 of the POCSO Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one Sorojoy Das, on 25.10.2022, to the effect that one Biplab Das of his village has attempted to commit sexual intercourse with his minor daughter Smti X (name withheld) and also he touched her private parts and also threatened to make some indecent photographs of his daughter, viral in the social media.

4. Mr. Sarkar, learned counsel for the accused submits that the accused preferred an application for grant of pre-arrest bail being AB No. 3312/2022, and this court was pleased to dismiss the said application vide order dated 17.11.2022, and thereafter, the accused surrendered before the IO and since then he is behind the bar for last 35 days and that he is ready to participate in the trial, and therefore, it is contended to allow this petition.

5. On the other hand Mr. Gogoi submits that though the case diary was called for, vide order dated 16.12.2022, the same has not yet been received. But, he has instruction that the IO has completed investigation in the meantime and submitted charge sheet before the learned court below, being charge sheet No. 178/2022, dated 30.11.2022, under Sections 354[A]/506 of the IPC read with section 10 of the POCSO Act.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. Since the Charge-Sheet has already been submitted, after completion of investigation, there is no scope of hampering investigation or tampering the

witnesses. Now, trial will start and the accused has to prepare his defence.

8. In view of above, and also in view of the nature of accusation and the punishment prescribed for the same this court is of the view that further custodial detention of the accused in the interest of investigation seems to be unwarranted here in this case and therefore, this court is inclined to allow this petition.

9. 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, Bijni, the accused be enlarge on bail.

10. In terms of above this BA stands disposed of.

JUDGE

Comparing Assistant