

GAHC010252302023



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

Case No. : Bail Appln./4098/2023

JUDHISTHIR RABHA
S/O RAM KANTA RABHA
VILL- HATISHILA, P.S. LAKHIPUR
DIST. GOALPARA, ASSAM
PIN-783129

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:MIGUEL DAS QUEAH
S/O SH. B.M. QUEAH
R/O 5B
BLOCK-A
SUBANSIRI APARTMENT
GOVERNMENT PRESS ROAD

BAMUNIMAIDAM
GUWAHATI-781021

DIST. KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 29.11. 2023

Heard Mr. A. M. Ahmed, learned for the petitioner and Mr. BB Gogoi, learned Addl. Public Prosecutor for the State respondent No. 1.

This is an application under Section 439 Cr.P.C., filed by the petitioner, namely Judhisthir Rabha, seeking bail who was arrested on 17.10.2023 in connection with CID P.S. Case No. 12/2023 under Section 15(2) of the POCSO Act read with Section 67B of the Information of Technology Act.

The learned counsel for the petitioner has submitted that the petitioner is one of the members of a Whatsapp Group namely "Axomia Viral Video" created by another person and added the petitioner in the said group. It is also submitted that one of the members of the group namely, Mr. Ashim Phukan had been sharing a screen shot of the videos and added to the petitioner and accordingly, the petitioner has commented in the said post in the Whatsapp Group but the petitioner has not posted the screen shot in the said Whatsapp Group.

It is also submitted that the petitioner has been in judicial custody for last 43 days. Under the above facts and circumstances, bail may be granted to the petitioner.

The learned Addl. PP has opposed in granting bail to the petitioner by stating that notice has not been served to the respondent No. 2.

Case diary is received and perused.

I have considered the submissions of the learned counsel for the parties.

It appears that the FIR has been lodged by the Executive Director of one NGO, UTAH, and the name of the petitioner has not been mentioned in the

said FIR. There is no specific allegation against the petitioner that the petitioner has posted the screen shot of the obscene videos in the Whatsapp group. It is also noticed that no allegation has been made against the petitioner by the victim or her family members.

As the accused petitioner has been in custody since last 43 days, it transpires that substantial part of investigation of the case has been completed. Under such backdrop, further custodial interrogation of the petitioner is not required for the purpose of investigation of the case.

In view of the above, prayer for bail of the petitioner is allowed.

Accordingly, it is directed that the accused/ petitioner above named be released on bail in connection with CID P.S. Case No. 12/2023 under Section 15(2) of the POCSO Act read with Section 67B of the Information of Technology Act on furnishing a bond of Rs. 30,000/- (Rupees thirty thousand) with 1 (one) suitable surety of like amount to the satisfaction of the learned Special Judge (POCSO), Kamrup (M), Guwahati.

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

- (a) shall not leave the territorial jurisdiction of the learned learned Special Judge (POCSO), Kamrup (M), Guwahati, without prior written permission from him/ her;
- (b) shall not hamper with the investigation and tamper with the evidence of the case; and
- (c) 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/ her from disclosing such facts to the

Court or to any police officer.

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

Return the case diary.

JUDGE

Comparing Assistant