

GAHC010253402023



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

Case No. : Bail Appln./4116/2023

CHANDAN CHOUHAN
SON OF GOPI CHOUHAN AND RESIDENT OF VILLAGE- DARIYA BASTI, P.S.
HOJAI IN THE DISTRICT OF HOJAI, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE LEARNED PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.11.2023

Heard Mr. S. Das, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State of Assam.

This application under section 439 of the Code of Criminal Procedure 1973, has been filed by the petitioner, namely, Chandan Chouhan, who has been detained behind the bar since 29.09.2023 (since last 52 days), in

connection with Kaki P. S. Case No. 96/2023 under section 366(A) of the IPC.

The gist of accusation against the present petitioner is that on 26.09.2023, the uncle of the victim girl, namely, Bhola Chauhan lodged an FIR before the Officer-in-charge of Kaki Police Station, *inter-alia*, alleging that on 26.09.2023, the present petitioner along with one Rajkumar Chouhan had kidnapped the niece of the informant and therefore, the whereabouts of the victim girl is not known.

Learned counsel for the petitioner has submitted that prior to the present incident on an earlier occasion i.e., 05.07.2023 also the niece of the informant of the present case was kidnapped by the co-accused of the present petitioner, namely, Rajkumar Chouhan.

It is further submitted by learned counsel for the petitioner that on earlier occasion, the accused Rajkumar Chouhan was granted bail by the learned Sessions Judge, Hojai. Thereafter, niece of the informant with the said Rajkumar Chouhan and whereabouts of both the victim girl and Rajkumar Chouhan is not known.

Learned counsel for the petitioner has submitted that the petitioner has been detained behind the bar since last 52 days. It is further submitted that on request of Rajkumar Chouhan, the present petitioner only dropped him in front of the house of the victim without knowing as to intention of the co-accused was to kidnap the victim girl.

Learned counsel for the petitioner has also submitted that the petitioner would otherwise co-operate in the investigation.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Kaki P. S. Case No. 96/2023 and has submitted that the main accused, namely, Rajkumar Chouhan as well as the victim girl's whereabouts are

yet to be known and the victim girl is yet to be recovered.

Learned Additional Public Prosecutor has also submitted that the Investigating Officer has recorded the statement of the witnesses whose testimony is only hearsay in nature.

It is further submitted that the Investigating Officer has also recorded statement of the present petitioner under Section 161 of the Code of Criminal procedure, 1973.

Though, the victim girl is yet to be recovered and the main accused is yet to be apprehended however, considering the fact that the statement of the present petitioner has already been recorded and he has been detained behind the bar since last 52 days, his further custodial detention does not appear to be necessary for fair completion of the investigation of case, if he otherwise co-operates with the Investigating Officer.

In view of the above, the petitioner, namely, Chandan Chouhan is hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Hojai with the condition that the petitioner shall co-operate in the investigation and shall appear before the Investigating Officer as and when so required for the sake of fair completion of the investigation.

With the above observation, this instant bail application is accordingly disposed of.

Send back the case diary.

JUDGE

Comparing Assistant