

GAHC010255192022



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

Case No. : Bail Appln./3453/2022

MD. SABIR ALI
S/O- LATE ABBDUL KARIM @ KARIM ALI,
R/O- VILLAGE - BILPATHAR (NAUJAN),
P.S- SARUPATHAR,
DIST- GOLAGHAT, ASSAM,

PRESENTLY RESIDING AT VILLAGE NO-2, KORIGAON,
P.S- SARUPATHAR, DIST- GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP ASSAM

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18-01-2023

Heard Mr. U.K. Barman, learned counsel for the accused and also heard Mr. R.J. Baruah, learned Addl. PP, appearing for the State respondent.

This application under Section 439 Cr.P.C., is preferred by accused, **Md. Sabir Ali**, who has been languishing in jail hajot in connection with **POCSO Case No.23/2020** , under section **366 IPC read with section 4 of POCSO Act**, pending before the court of learned Special Judge, Karbi Anglong, Diphu since 30.11.2022, for grant of bail.

The said case has been registered on the basis of an FIR lodged by one Md. Hanif Ali on 15.11.2019, to the effect that on 14.11.2019, at about 5.45 AM, his sister Smti X (name withheld) went to Sila Basti Madrasa and since then she has been missing and he suspected that one Sabir Ali has kidnapped his sister who proposed to marry her and kept her confined in unknown places.

Mr. Barman, the learned counsel for the accused submits that the accused has been charge sheeted showing him as absconder and thereafter, the learned court below issued NBWA against him and thereafter, the accused approached this Court by filing a petition under section 482 Cr.P.C and vide order dated 09.11.2022, this Court directed him to appear before the learned court below and to apply for regular bail and accordingly, he has appeared before the learned court below on 30.11.2022, and on that day, the learned court below has dismissed the petition filed by the accused and remanded him to jail hajot and since then, he has been languishing in jail hajot for the last 39 days. Mr. Barman, further submits that the accused is ready to participate in the trial and therefore, it is contended to allow the petition.

On the other hand, Mr. R.J Baruah, learned Addl. PP submits that charge has already been framed under section 366 IPC read with section 4 of the POCSO Act and the victim girl has already been examined by the learned court below and her statement is available with the scanned copy of the record received from the learned court below.

Having heard the submission of learned Advocate for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the evidence of the victim girl recorded by the learned court below.

Having perused the evidence of the victim so recorded by the learned court below and without commenting on the merit of the same, this Court is of the view that a case for granting bail to the accused is made out and accordingly, it is provided that on furnishing a bond of Rs.25,000/-, with one surety of the like amount, to the satisfaction of the learned Special Judge, POCSO Act, Karbi Anglong, Diphu, the accused be enlarged on bail.

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

JUDGE

Comparing Assistant