

GAHC010259212022



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

Case No. : Bail Appln./3498/2022

SAYAN DUTTA
S/O SWARUP DUTTA R/O NATUN BAZAR STATION ROAD P.S. HOJAI DIST.
HOJAI ASSAM

VERSUS

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

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

03.01.2023.

Heard Mr. A.W. Aman, learned counsel for the accused. Also heard Mr. B.B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Sayan Dutta, who is languishing in jail since 25.11.2022, in connection with the Hojai P.S. Case No.506/2022, under Sections 67-A/67-B of the I.T. Act, read with Section 15 of the POCSO Act, for granting bail.

The said case has been registered on the basis of an F.I.R., lodged by SI Anup Jyoti Kalita on 25.11.2022. The allegation leveled against the accused is that he used one mobile phone, No.8723889227, belonging to his father Swarup Dutta and with the said mobile phone, he shared and uploaded and transmitted some materials related to child sexual video in web space.

Mr. Aman, learned counsel for the accused submits that the accused is behind the bar for last 39 days, and the mobile phone, allegedly used in commission of the crime, has already been seized by police and that he is a student of Gauhati University, pursuing B. Com., from Guwahati Commerce College and on the date of offence, he has completed just 18 years and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. BB Gogoi, learned Addl. P.P., Assam has produced the case diary before this Court and submits that the I.O. has collected sufficient materials in support of the allegation made in the FIR. However, Mr. Gogoi further submits that material part of the investigation is almost over and there remains to collect the FSL report only.

Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of Mr. Gogoi, learned Addl. P.P., Assam.

It appears that the accused was arrested on 25.11.2022, and since then, he has been languishing in the jail hajot. Further, it appears from the case diary that material part of investigation is almost over and there remains to collect the FSL report only and it also appears that the accused is a student and pursuing B. Com in Guwahati Commerce College.

Having regards to the above and in view of the nature and accusation and punishment prescribed for the offence, this Court is of the view that further custodial detention of the accused seems to be unwarranted here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- (Rupees twenty five thousand) only, with one surety of like amount to the satisfaction of the learned Special Judge, POCSO at Hojai, the accused person, named above, shall be enlarged on bail, in connection with the Hojai P.S. Case No.506/2022.

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

The case diary be returned.

JUDGE

Comparing Assistant