

GAHC010260052022



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

Case No. : Bail Appln./3509/2022

MANTU BARUAH
S/O LATE UMESH BARUAH
R/O VILL- ANANDAPUR
P.S. BARAMA, DIST. BAKSA, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

03.01.2023.

Heard Mr. B.K. Mahajan, learned counsel for the accused. Also heard Mr. R.R. Kaushik, learned Addl. P.P., Assam appearing for the State respondent.

This application, under Section 439 of the Code of Criminal Procedure, is preferred by accused, namely, Sri Mantu Baruah, who is languishing in jail since 05.12.2022, in connection with Baithalangso P.S. Case No.91/2022, under Sections 366/376(3) of the IPC, read with Section 4 of the POCSO Act, for grant of bail.

The said case has been registered on the basis of an F.I.R., lodged by Dhonsing Pator on 02.12.2022, to the effect that on 01.12.2022, his daughter Smti 'X' (name withheld), aged 15 years, along with three of her friends went to the school at Rajagaon and they did not return home till the evening. Thereafter, on the next day, three of her friends were recovered with the help of Sonapur Police Station and his daughter returned home on 02.12.2022, at about 3:00 P.M. and that accused Tapo Biswas took all the four girls to Kampur Railway Station, where from they were taken to Guwahati and kept his daughter in a Hotel and committed rape upon her.

Mr. Mahajan, learned counsel for the accused submits that the allegation against the present accused is that being the Manager of the Hotel, namely, Town & Country Inn, he has destroyed the blood stained bed sheet and the offence, if any is made out, against the present accused are under Section 210/202 of the IPC and the same areailable in nature and that on the relevant date, on which the main accused Tapo Biswas has taken the girls to the Hotel, the present accused was not there, instead one Bishal Kundu was there and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. R.R. Kaushik, learned Addl. P.P., Assam has produced the case diary before this Court and fairly submits that on the relevant date of occurrence, the accused was not present in the said Hotel and that he came in

the next day morning and one Bishal Kundu was the person, who had allowed accused Tapo Biswas to stay in the hotel on that night.

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. Kaushik, learned Addl. P.P., Assam.

It appears that the accused was arrested on 05.12.2022, and since then, he has been languishing in the jail hajot. The main ground of arrest, as reflected in the forwarding report (Annexure-B) is that he being the Manager of the Hotel by name Town & Country Inn, where the victim was kept and he assisted the accused in committing the crime by provide shelter illegally and destroyed the blood stained bed sheet, which is evident from the picture of his mobile phone and he might have influenced the witnesses of the case and tampered the evidence and he suspects that a big racket is involved with the offence and his further custodial interrogation is necessary.

However, it appears from the case diary that on the relevant date, the accused was not present in the Hotel and he returned to the Hotel on the next day and as it also appears from the case diary, that one Bishal Kundu was the person who allowed the main accused, namely, Tapo Biswas to stay in the Hotel on the relevant date of occurrence.

Further it appears that the I.O. has achieves substantial progress in the investigation of the case and the main accused Tapo Biswas has also been arrested here in this case and in view of above facts and circumstances of the case, further custodial detention of the accused seems to be unwarranted here in this case and therefore, this Court is inclined to allow this petition.

Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- (Rupees fifty thousand) only, with one surety of like amount to the satisfaction of the learned Special Judge, POCSO at West Karbi Anglong District, the accused person, named above, shall be enlarged on bail, in connection with the Baithalangso P.S. Case No.91/2022.

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

The case diary be returned.

JUDGE

Comparing Assistant