

GAHC010260132022



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

Case No. : Bail Appln./3515/2022

MD INJAMAMUL HOQUE
S/O INDADUL HOQUE
PERMANENT RESIDENT OF VILL- PUNIA
P.S. SIPAJHAR
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR Z HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 06-01-2023

Heard Mr. Z. Hussain, learned counsel for the accused-petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973, the accused-petitioner viz. Md. Injamamul Hoque has prayed for his release on bail in connection with Sipajhar Police Station Case no. 521/2022, registered for offence

under Section 366, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the court of learned Chief Judicial Magistrate, Darrang, Mangaldai on 01.12.2022 and on being so produced, he was remanded to custody.

4. As per the First Information Report [FIR] lodged on 30.11.2022, the minor daughter of the informant, aged about 16 years 10 months, was kidnapped by the accused-petitioner on 30.11.2022. As per the FIR, the minor daughter of the informant was recovered from the house of her aunt under Duminchowki Police Out Post.

5. Mr. Sharma, learned Additional Public Prosecutor has produced the case diary wherein the statement of the minor victim recorded under Section 164, CrPC on 01.12.2022 is available. The minor victim in her statement recorded under Section 164, CrPC has *inter alia* stated that she along with the accused-petitioner went to Guwahati in his motor-cycle on 29.11.2022 as the accused-petitioner wished to buy some new clothes. The daughter of the informant has further stated that she forgot to inform her parents about her going out to Guwahati with the accused-petitioner. At around 03/03:30 p.m., she received a phone call from her aunt, Majoni Begum, who invited both of them to her place and accordingly, both of them went to Majoni Begum's house, located under Duminchowki Police Out Post. It was from the house of her aunt the police personnel from Sipajhar Police Station took both of them. The victim has further stated that there was no sexual act committed by the accused-petitioner with her.

6. Having regard to the version given by the minor daughter of the informant in her statement recorded under Section 164, CrPC and the period of detention of the accused-petitioner since 01.12.2022, this Court is of the considered view that custodial detention of the accused-petitioner for any further period for the purpose of carrying out further investigation appears not necessary and if the accused-petitioner is

released on bail, at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided the accused-petitioner continues to extend his assistance and cooperation in the further investigation of the case.

7. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 25,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Darrang, Mangaldai, subject to the following conditions :-

[1] The accused-petitioner shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[2] The accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer; and

[3] The accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

This application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant