

GAHC010262982023



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

Case No. : Bail Appln./4284/2023

RAKIBUL AHMED AND ANR
S/O- SOBUR UDDIN AHMED, VILL.- TAPARTARY, P.S. ABHAYAPURI, DIST.
BONGAIGAON, ASSAM

2: GOLAM HUSSAIN @ GULAM HUSSAIN
S/O- ABDUL KALAM
VILL.- LATIBARI
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 30.11.2023

Heard Mr. H. R. A. Choudhury, learned senior counsel assisted by Mr. M. I. Hussain, learned counsel for the petitioners. Also heard Mr. R. J. Baruah,

learned Additional Public Prosecutor for the State.

This application under `section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, (1) Rakibul Ahmed and (2) Golam Hussain @ Gulam Hussain, who are detained behind the bars since 28.09.2023 (for last 63 days) in connection with Tarabari P.S. Case No. 76/2023 under Sections 365/368/376 of the Indian Penal Code.

Learned senior counsel for the petitioners has submitted that this is the second time the present petitioners are approaching this court for bail; their earlier petition for bail was rejected by this Court by order dated 14.11.2023.

Considering the period of detention and the progress which might have been made by this time, learned senior counsel for the petitioners has prayed for allowing the petitioner to go on bail.

On the other hand, learned Additional Public Prosecutor has placed the case diary of Tarabari P.S. Case No. 76/2023 which was called for in connection with this case and has submitted that the investigation has fairly progressed and it is pending only for collection of the FSL report as regards the blood sample of the victim girl which was sent to Forensic Laboratory to determine as to what material was administered to her.

It is also submitted by learned Additional Public Prosecutor that in the meanwhile the medical report of the victim girl has also been collected.

I have considered the submissions made by learned counsel for the petitioners as well as learned Additional Public Prosecutor.

On perusal of the record of this case, it appears that the prayer for bail of the present petitioners was earlier rejected by this Court on the ground that the investigation was not completed and the offence involved in this case is serious in nature and 15 days have already lapsed since the date of that rejection.

It appears that in the meanwhile, the investigation has progressed and it is almost complete and only pending for collection of FSL report. It also appears that though there are materials against the petitioners in the case diary, however, considering the progress made in the investigation, their further custodial detention may not be necessary, if they otherwise co-operate in the investigation and abide by the condition imposed on them while allowing them to go on bail.

For reasons mentioned herein above, both the petitioners named hereinbefore are allowed to go on bail of Rs. 50,000/- (Rupees Fifty Thousand Only) each, with one surety of like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Barpeta with the following conditions:

- i. That the petitioners shall not directly or indirectly make any inducement, threat or promise to the victim girl or to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer or Police Officer or to any Court.
- ii. That the petitioners after their release on bail shall appear before the Investigating Officer of Tarabari P.S. Case No. 76/2023 for once in every week for two weeks or till investigation is complete, whichever is earlier and shall co-operate with the investigation.

With the above observation, this bail application is accordingly disposed of.
Send back the case diary.

JUDGE

Comparing Assistant