

GAHC010263422022



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

**Case No. : Bail Appln./3603/2022**

MAHENDRA DEWRI  
S/O LATE BABAJI DEWRI  
R/O VILL- BORGRIGURI,  
P.S. RAHA  
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR A SHARMA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**Date : 04-01-2023**

Heard Mr. A Sharma, learned counsel for the accused and Mr. BB Gogoi, learned Addl. PP, appearing for the State Respondent.

This application under section 439 Cr.P.C., is preferred by accused, namely, ***Mahendra Dewri***, who is languishing in jail hajat since 07.11.2022, in connection with ***Raha PS Case No.172/2022***, under sections 376(3)/511 IPC, read with section 8 of POCSO Act, for grant of

bail.

The said case has been registered on the basis of an FIR lodged by one Surabhi Daimari on 6.11.2022, to the effect that on that day at about 11.30 AM, while her daughter Smti. X (name withheld), aged 13 years studying in class 6, was staying alone in her house, the accused entered into her house and attempted to commit rape upon her daughter.

The learned counsel for the accused submits that the accused is behind the bar for the last 58 days and that the marriage of his daughter is going to be solemnized on 16.01.2023, and in support of his submission, Mr. Sharma has enclosed one invitation card as Annexure – 4 with the petition. Further, Mr. Sharma submits that in view of the period of detention for 58 days in jail hajot, his further detention may not be required and therefore, it is contended to allow the petition.

On the other hand, Mr. BB Gogoi, learned Addl. PP, obtaining instructions from the O.C concerned P.S submits that after completion of investigation, the IO has laid charge sheet, being CS No.176/2022, dated 30.11.2022, and therefore, Mr. Gogoi has opposed the petition.

Having heard the submission of learned advocates for both the sides, I have carefully gone through the petition and the documents placed on record. It appears that the accused was arrested on 07.11.2022, and since then, he has been languishing in jail hajot for the last 58 days.

Further it appears from the Annexure – 4, at page 12 of the petition that the marriage of his daughter is going to be solemnized on 16.01.2023, and as submitted by Mr. BB Gogoi, learned Addl. PP, investigation has already been completed and the IO has laid charge sheet against the accused.

Since charge sheet has been submitted, the question of hampering investigation and tampering the witnesses does not arise and

Mr. Sharma, learned counsel for the accused assured this Court that the accused will participate in the trial and he will appear before the court regularly.

Having considered the above, and also considering the nature and gravity of the offence and the punishment prescribed for the same, further custodial detention of the accused seems to be unwarranted here in this case and accordingly, it is provided that on furnishing a bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Special Judge, POCSO Act, Nagaon, the accused be enlarged on bail.

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

**JUDGE**

**Comparing Assistant**