

GAHC010264092022



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

Case No. : Bail Appln./3594/2022

MARJINA BEGUM
W/O SAMIR KHAN @ MD. SAMIR
VILL- KATAR CHOWK
P.S. KRISHNA COLONY
DIST. FARIDABAD, HARYANA
PRESENTLY RESIDING AT VILL- KALMANI, P.O. AND P.S. RANGIA, DIST.
KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A ALI

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 06-01-2023

Heard Mr. A. Ali, 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. Marjina Begum has prayed for her release on bail in connection with Rangia Police Station Case no. 610/2022, registered for offence under Section 366, Indian Penal Code [IPC].

3. In the First Information Report [FIR] lodged on 01.10.2022, the informant has named two persons as accused with the accused-petitioner as the accused no. 2 [A-2]. The accused no. 1 is the son of the accused-petitioner. As per the FIR, when the informant's minor daughter, a student of Class-VII, had gone out to appear in an examination on 26.09.2022, the minor daughter went missing. After search, the informant came to know that the victim was kidnapped and was kept in the house of the accused persons at Delhi. The informant has further mentioned that about 3 [three] months earlier, the accused persons had fraudulently taken her minor daughter to their house at Delhi and the informant had to recover her daughter from the house of the accused persons at Delhi.

4. The accused-petitioner was arrested and produced before the Court on 26.11.2022 and on being so produced, the accused-petitioner was remanded to custody.

5. In the course of investigation, the victim was recovered. On 20.10.2022, the victim was produced before the Court of learned Judicial Magistrate, 1st Class, Rangia. The statement of the victim was recorded under Section 164, CrPC on 20.10.2022. In her statement, the victim has stated that on 26.09.2022, she was kidnapped by two male persons and thereafter, she was handed over to a woman who took her to Haryana. After taking her to Haryana, she was kept in the house of that woman and the woman tried to get the victim married with her son but the son refused to enter into marriage with the victim

and after a fight with his mother, he fled away. After 10 days, her mother recovered her and took her to her house. The victim has further stated that she did not know the woman earlier. She has, however, mentioned that no illicit act was committed with her during her stay in the house of the woman. From the order passed by the learned Judicial Magistrate, 1st Class, Rangia dated 20.10.2022, it is noticed that after recording the statement of the victim, she was handed over to the mother i.e. the informant. There are conflicting versions of the victim in her statements recorded under Section 161, CrPC and under section 164, CrPC. From the statements of the informant as well as the accused-petitioner, it is noticed that they were known to each other from earlier date and the fact of taking the victim by the accused-petitioner was known to the informant and there was contemplation of marriage of the victim with the son of the accused-petitioner.

6. Having regard to the aforesaid facts and circumstances, emerged from the materials in the case diary, and considering the fact that the accused-petitioner is in custody since 26.11.2022, I am 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 her 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. 50,000/- with one local surety of the like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate [M], Rangia, subject to the following conditions :-

- [1] The accused-petitioner shall cooperate with the investigation and shall thereafter, make herself available as and when her 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;
- [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;
- [4] The accused-petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from the Officer In-Charge;
- [5] The accused-petitioner shall maintain law and order and she shall not commit an offence similar to the offence of which she is accused, or of the commission of which she is suspected; and
- [6] The accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

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

JUDGE