

GAHC010268082022



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

Case No. : Bail Appln./3636/2022

MINARUL HOQUE @ HAQUE
S/O- LT. ABDUL JUBBAR ALI, VILL- ARATERGAON, P.S. SUKCHAR, DIST.-
SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MD K RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.01.2023

Heard Mr. K. Rahman, learned counsel for the accused and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Minarul Hoque @ Haque, who has been languishing in jail hazot, in connection with the Sukchar P.S. Case No. 136/2022, under Sections

143/365/302/201 of the IPC added sections 120[B]/376[AB]/34 of the IPC read with section 6 of the POCSO Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Abbas Ali, on 19.08.2022. The allegation made in the FIR is that his daughter Smti X [name withheld] aged 5 years was missing from his house and later her dead body was found in jute field at about 8 pm on the same day and the informant suspects that one Jahan Uddin Mollah; Gias Uddin Mollah; Karimul Mollah; Abdul Baten Mollah; Mosharaf Mollah; Hannan Mollah; Majibar Rahman Mollah; Aminul Mollah; Sahabuddin Mollah; Mirajul Islam Mollah; and Yahiah Mollah are involved in the said offence.

4. Mr. Rahman, learned counsel for the accused submits that the accused was arrested on 11.12.2022, and he is behind bar for last 29 days and as per forwarding report he has facilitated in escaping one accused namely, Mojibur Rahman and he is no way involved with the main offence under which the case has been registered and he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor, by producing the case diary before this court, submits that the allegation against the present accused is that he has facilitated escaping of one accused namely, Mojibur Rahman.

6. 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. Gogoi, learned Addl. P.P.

7. It appears that the accused was arrested on 11.12.2022, and since then he has been languishing in jail for last 29 days. Further, it appears from the case diary that the IO has achieved substantial progress in the investigation and the materials so far collected in the case diary reveals that he only facilitated escaping of one accused namely, Mojibur Rahman, after commission of the crime and he is not involved with the main offence under which the case has been registered.

8. In view of above, this court is of the view that 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. 25,000/- (Rupees twenty five thousand) only, with one surety of like amount to the satisfaction of the learned Special Judge, POCSO Act, South Salmara Mankachar, the accused be enlarged on bail.

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

9. The case diary be returned.

JUDGE

Comparing Assistant