

GAHC010268592022



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

Case No. : Bail Appln./3657/2022

RAJ KISHOR THAKUR
S/O LATE ANANDALAL THAKUR
R/O LOKHORA
P.S. BASISHTA
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.01.2023

Heard Mr. M. Baruah, learned counsel for the accused and also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

This application under Section 439 of the Cr.P.C is preferred by accused,

namely, **Raj Kishor Thakur**, who has been languishing in jail since 10.12.2022, in connection with **Basistha P.S. Case No.1048/2022**, under Sections 354D of IPC read with Section 12 of POCSO Act, 2012 for granting bail.

The above case has been registered on the basis of an FIR lodged by one Mina Basumatary on 10.12.2022, to the effect that on the same day her daughter (victim girl) aged about 9 years, went to her school situated Nalapara and usually she return home from school at 12:30 p.m. but on that day she did not return, and later on, she came to learn that one Raj Kishor Thakur, a barber by profession, has taken her in a house situated in a jungle and then some of the masons noticed and recovered the victim girl from the possession of the accused and she also came to know that he was following her daughter for quite some times and on that day, he has taken her to the said room for satisfying his gratification.

Mr. Baruah, learned counsel for the accused submits that the accused is behind the bar for last 30 days and the learned Additional Public Prosecutor has failed to produce the Case Diary before this Court today also and as per allegation made in the FIR, the offence under which the case has been registered, is not made out and that he is ready to face trial and cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. B.B. Gogoi, learned Addl. P.P. submits that he has not received the Case Diary. It appears that the learned Addl. P.P. was granted time to produce the Case Diary before this Court vide order dated 05.01.2023, but, the learned Addl. P.P. has failed to produce the same before this Court. Therefore, it is proposed to dispose of this application on the basis of materials available on the record.

It is not in dispute that the accused is behind the bar for 30 days. From the nature and gravity of the allegations made in the FIR and also the grounds of arrest mentioned in the Forwarding Report, further custodial detention of the accused seems to be unwarranted here in this case and accordingly, this Court is inclined to allow this application. 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, Kamrup(M), Guwahati the accused, namely, Raj Kishor Thakur be enlarged on bail.

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

JUDGE

Comparing Assistant