

GAHC010271882022



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

Case No. : Bail Appln./8/2023

JAAN MONI BORAH @ BORA
S/O- LT. CHALIA BORAH, R/O- VILL- BALITIKA, P.O. SILGHAT, P.S.
KALIABOR, DIST.- NAGAON, ASSAM

VERSUS

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

Advocate for the Petitioner : MR S DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 20-01-2023

Heard Mr. S Deka, learned counsel for the applicant and also heard Ms. SH Bora, learned Addl. PP, appearing for the State respondent.

This application under section 439 Cr.P.C., is preferred by applicant, namely, Jaan Moni Borah @ Bora, who has been

languishing in jail hajot in connection with Kaliabor PS Case No.14/2021, under section 376(3)/302/201/120B IPC, read with section 6 of POCSO Act, 2012 [Special (POCSO) Case No.30(N)/2021, for grant of bail.

The said case has been registered on the basis of an FIR lodged by one Saidur Rahman, uncle of the victim on 10.02.2021 to the effect that his niece Smti. X (name withheld) informed him that when she went to attend work in his poultry farm she has been raped by Jaan Moni Borah and as a result she gave birth to a baby on 10.02.2021 and after giving birth to the baby, her mother Rosna Begum and two sisters Mukarima Begum and Suma Begum killed the baby and concealed the dead body in the compound of their house.

Mr. Deka, the learned counsel for the accused submits that after completion of the investigation, the IO has laid charge sheet against the present accused and three others, and the learned court below has already framed charge against the accused persons and examined three witnesses, out of 8 cited witnesses and the informant and the victim has not implicated the accused and he is behind the bar for the last 707 days and therefore, it is contended to allow this petition.

Whereas, Ms. SH Bora, learned Addl. PP also, going through the record of the learned court below, submits that some contradictions are there in the evidence of the victim PW-1 and also in the evidence of the informant PW-3.

Having heard the submission of learned Advocate for both the sides, I have carefully gone through the petition and the documents

placed on record and also perused the scanned copy of the record received from the learned court below along with the status report.

After perusal of the evidence of the victim, who has been examined as PW-1 and also the evidence of the PW-3, the informant and without making any comment on the merit of the same, this Court is of the view that a case for granting bail to the accused is made out 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 the above, the bail application stands disposed of.

JUDGE

Comparing Assistant