

GAHC010280022023



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

Case No. : Bail Appln./4508/2023

RAMIZ MOHOBUB @ MUBASSIR MAHBOOB
S/O GOLAM MOHOBUB,
A RESIDENT OF JOYANTIA BASTI,
NILBAGAN, DIST. HOJAI, ASSAM
PIN-782445

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE LEARNED PP, ASSAM

2:SAJID ALI
S/O LT. SABIR ALI
A RESIDENT OF BISHNUPALLY HOJAI
DIST. HOJAI
ASSAM

PIN-782435
PH. NO. 945860111

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

22.12.2023

Heard Mr A M Bora, learned Senior Counsel, assisted by Mr S A Barbhuyan,

learned for the petitioner, Ramiz Mohobub @ Mubassir Mahboob.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail as he is in jail since 01.12.2023 in connection with Doboka PS Case No. 228/2023, under Sections 294/354-A/509 IPC and under Section 12 of the POCSO Act, 2012.

3. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.

4. I have considered the submissions at the Bar with circumspection.

5. It is submitted at the Bar that the petitioner did not receive notice under Section 41-A CrPC, prior to his arrest. The learned Senior Counsel for the petitioner has relied on the decision of Hon'ble the Supreme Court in ***Satender Kumar Antil vs- Central Bureau of Investigation***; reported in (2022) 10 SCC 51, wherein it has been observed that-

“100.3. The Courts will have to satisfy themselves on the compliance of Sections 41 and 41-A of the Code. Any non-compliance would entitle the accused for grant of bail.”

6. It is also submitted that the petitioner has already been detained for 22 days and further custodial detention of the petitioners may not be required.

7. The allegation against the petitioner is that he outraged the modesty of the minor victim, who was his student.

8. I have considered the submissions at the Bar with circumspection. I have scrutinized the Case Diary.

9. The investigation has progressed to a considerable extent. Further custodial

detention of the petitioner for the progress of investigation may not be required in connection with this case.

10. The petitioner is a local resident. The petitioner has submitted that he will cooperate with the investigation and trial.

11. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- (Rupees Fifty Thousand), with a suitable surety of the like amount, to the satisfaction of the learned Special Judge (POCSO), Shankardevnagar, Hojai, under the conditions that:-

i) the petitioner shall cooperate with the remaining part of the investigation as well as with the trial,

ii) the petitioner shall not leave the jurisdiction of the Court without prior permission, till completion of investigation, and

iii) the petitioner shall not exercise threats to the witnesses and tamper with the evidence.

On breach of any of the bail conditions, the bail order shall stand cancelled.

12. Bail Application stands disposed of.

13. Send back the Case Diary.

JUDGE

Comparing Assistant