

GAHC040002922024



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

Case No. : BA/22/2024

Rupa Begum
Wife of Md Helim Ali, resident of No.1 Bagariagaon, PO Meherbil PS Laluk, North
Lakhimpur District, Assam.

VERSUS

The State of AP and Anr
represented by the PP of AP 2:Kiyir Diyum Riba
Age: 0
Occupation

Advocate for the Petitioner : G Taloh

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 18.03.2024

Heard Mr. G. Taloh, learned counsel for the applicant. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State respondent No. 1 and Ms. N. Danggen, learned Legal Aid Counsel for the respondent No. 2/informant (guardian of the victims).

By filing this application under Section 439 of the Code of Criminal Procedure, 1973, the applicant has prayed for grant of bail to the accused person, namely, Shri Simanta Hazarika, who has been arrested in connection with Itanagar Women P.S. Case No. 03/2024, under Section 363/366-A/376-DA of the Indian Penal Code *read with* Section 6 of the Protection of Children from Sexual Offences Act, 2012.

The case being Itanagar Women P.S. Case No. 03/2024 was registered on the basis of a missing report filed by the informant before the Officer-In-Charge, Itanagar Women Police Station stating that her cousin and another minor girl were missing from her rented house at Chandranagar since the intervening night of 18th & 19th Januray, 2024. Accordingly, the case was initially registered under Section 363 IPC, 1860. During investigation, the minor girls were recovered and it was surfaced that they were also subjected to rape and sexually assaulted by the accused persons. Accordingly, on the prayer of the investigating officer, Sections 366A/376DA IPC *read with* Section 6 of the POCSO Act were added. It was revealed on investigation that the minor girls were

subjected to rape in a hotel at Harmutty, Assam and thereafter taken to Guwahati. The present accused, who happens to be the brother-in-law of the hotel owner and was looking after the hotel as a Manager for a time being, had allotted 2 rooms to the other accused persons with the 2 (two) minor girls. The present accused person, who was looking after the hotel as a Manager at the relevant point of time, was summoned by the Investigating Officer and on his appearance on 25.01.2024, he was arrested and since then, he is in custody.

Mr. G. Taloh, learned counsel for the applicant, submits that the present accused is no way involved in the alleged offence and he has been implicated in this case only on the ground that he had provided rooms to the other accused persons and 2 (two) minor girls. He further submitted that the only fault of the accused person is to the effect that he did not obtain the identity proof of the 2 (two) minor victim girls while providing the hotel rooms to them. In fact, the present accused has asked the other 3 (three) accused persons and the 2 (two) minor girls to vacate the rooms on their failure to provide ID Cards as it was the requirement of the hotel norms and accordingly, the said 3 (three) accused persons and the 2 (two) minor girls left the hotel at around 6.00 to 7.00 p.m.

It is noticed that on earlier occasion, the present accused has approached the learned Trial Court for bail, however the same was withdrawn on 28.02.2024 as it was informed that the Charge-Sheet was already submitted and the learned Trial Court was availing leave.

Considering the submission made by the learned counsel for the applicant and also considering the fact that the present applicant has withdrawn the bail

application filed before the learned Trial Court and thereafter approached this Court by filing the present bail application on the ground that the Charge-Sheet was not filed at the relevant point of time, this Court deemed it appropriate to direct the applicant to approach the learned Trial Court with a fresh bail application as by now the Charge-Sheet has already been submitted.

The bail application stands disposed of in terms above.

The LCR be sent back.

JUDGE

Comparing Assistant