

GAHC040007172024



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

Case No. : BA/56/2024

Taro Pullo
Son of Taro Kacho, resident of Hija Village, PO and PS Ziro, Lower Subansiri
District, Arunachal Pradesh

VERSUS

The State of AP and Anr
represented by the PP of AP
2:XYZ
Age: 0
Occupation :
Wife of Tabring Venia
resident of Lobi Panchali Itanaga

Advocate for the Petitioner : Khoda Tari

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 24-06-2024

Heard Mr. K. Tari, learned counsel for the applicant. Also heard Ms. L. Hage, learned Additional PP for the State and Ms. C. Ering, learned Legal Aid counsel for the respondent no. 2.

2. This is an application under section 439 of the Cr.PC, 1973 praying for release of the accused who has been arrested by the Women Police Station, Itanagar in connection with WPS Ita C/No.13/24 under section 6 of the POCSO Act.

3. The case of the petitioner is that on 27.03.2024, one Meku Venia of Lobi-Pare filed a written FIR before the Officer-in-Charge, WPS, Itanagar inter-alia alleging therein that in the night of 25.03.2024 at around 10 pm her daughter went missing from the house and she returned on 27.03.2024 at around 2 pm in the evening. When she was asked, the victim disclosed that a grown man took her with him and she was with him for the whole night and the man slept with her. Basing on the above written FIR, a case was registered being WPS Ita C/No.13/24 under section 6 of the POCSO Act and investigated into. The accused was then arrested on the same day on 27.03.2024 and since then, the accused is inside police/judicial custody.

4. The learned counsel for the applicant submits that the accused is innocent and no sexual assault was committed by the accused on the victim. The MLC report also does not disclose commission of any sexual offence on the victim. The learned counsel for the applicant further submits that the age of the victim is also under dispute and since the accused has been inside custody for about 88 days without being released, and as there is no incriminating material against the accused, the accused be released on bail in order to facilitate him to defend his case from outside the jail.

5. The scanned copy of the LCR has been produced and I have perused the same.

6. The learned Additional PP, Ms. L. Hage, submits that the case has already been chargesheeted and taken cognizance by the learned Special Court, POCSO Act; and the trial of the case would begin very soon. Since the case involves with the offence against a minor child there is every possibility of the accused influencing the victim and her family if he is released on bail, therefore, she raises objection and submits not to release the accused at this stage.

7. Ms. C. Ering, learned Legal Aid counsel appearing on behalf of the respondent no. 2/informant also raised objection to the grant of bail to the accused at this stage and submits that since the victim is a minor, there is every possibility of the accused influencing and threatening the victim and her family if he is enlarged on bail, therefore, the accused may not be released till the recording of evidence of the victim before the Trial Court.

8. Upon hearing the parties and on perusal of the records, it appears that the victim is a minor aged about 12 years, she has given her statement before the Magistrate as well as the police, which indicates that she has some likeness for the accused; but since the victim is a minor child aged about 12 years only, it is possible that she was lured. Moreover, her such statement or consent if any, is immaterial as she is minor child at the time of incident. Under the circumstances, it appears that if the accused is released on bail at this stage, there is every possibility of he influencing the victim and the family as submitted by the learned Additional PP & Legal Aid counsel for the informant.

9. Considering the nature and allegation against the accused and the material found against him on record, and also considering the fact and circumstances of the case as stated above, I am not inclined to grant bail to the

accused at this stage.

10. Accordingly, this bail application stands rejected and dismissed.

JUDGE

Comparing Assistant