GAHC040010192024

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

Case No. : BA/85/2024

Tacha Rema
Son of Shri Tacha Hali, a permanent and present resident of Palab Village, PO and PS Balijan, Papumpare District, Arunachal Pradesh

VERSUS

The State of AP and Anr
represented by the PP of AP

2:Raj Ngurang
Age: 0
Occupation :
Son of Aso Ngurang resident of Lekhi village PO and PS Nirjuli Papumpare District Arunachal Pradesh.

Advocate for the Petitioner : N Rama

Advocate for the Respondent : P P of AP, G. Jini

BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28-08-2024

Heard Mr. N. Rama, learned counsel for the applicant. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State representing the respondent

No. 1 and Mr. G. Jini, learned Legal Aid Counsel for the respondent No. 2/victim.

2. This application under Section 483 of the Bharatiya Nagrarik Suraksha Sanhita, 2023, has been filed by the applicant, *Shir Tacha Rema*, seeking bail of the accused *Shri Tacha Ako*, who has been detained behind the Bars since 02.07.2024 (for the last 56 days) in connection with Itanagar W.P.S. Case No. 34/2024, under Sections 61(2), 65(2), 65(1) BNS' 2023, read with Section 4 of the POCSO, Act, 2012.

3. The gist of the accusation against the present accused applicant in this case is that on 02.07.2024, the brother of the victim girl had lodged and F.I.R. before the Officer-in-Charge of Women Police Station, Itanagar, *inter alia*, alleging that on 01.07.2024 at about 9.45 pm, the sister of the first informant (victim), who is aged about 14 (fourteen) years, had telephonically informed the informant that she was sexually assaulted by one *Kin Bhai* in one of the room of Sonam Hotel located at Ghopur, Itanagar. She also informed him that the main accused *Kin Bhai* was accompanied by the present applicant *Tacha Ako* and *Tacha Tade*. It is stated in the F.I.R. that when *Tacha Ako* and *Tacha Tade* left the room, in their absence, the accused *Kin Bhai* committed rape on the sister of the first informant.

4. The learned counsel for the accused applicant has submitted that the applicant is not involved in the offence alleged in the F.I.R. as the F.I.R. itself indicates that the prime accused in this case is *Kin Bhai*. The applicant went to the said hotel on invitation of the main accused *Kin Bhai*. It is also submitted by the learned counsel for the applicant that the alleged offence was committed in

the absence of the present applicant, when he was not there in the room. It is also submitted that the applicant has been detained behind the Bars for last 56 days and considering the length of detention, he may be allowed to go on bail. He further submits that the applicant is ready to abide by any condition imposed by this Court while granting him bail.

5. On the other hand, the learned Additional Public Prosecutor, Mr. T. Ete, has produced the Case Diary of the Itanagar W.P.S. Case No. 34/2024 and has fairly submitted that though the present applicant is not involved in the offence of rape on the victim girl, however, evidence suggest that he was involved in planning the offence along with the main offender. He also submits that though the investigation has fairly progressed and has almost completed, however, he opposes the bail on the ground that as the applicant is known to the victim girl, he may influence the victim girl if released at this stage.

6. The learned Legal Aid Counsel, Mr. G. Jini, also opposed the grant of bail to the present accused applicant on the ground that the applicant though was not involved in the offence of rape, however, has been involved in planning the alleged offence along with the main accused *Kin Bhai*. He also apprehends that if the present applicant is released on bail, he may influence or threaten the witnesses including the victim girl. Hence, opposes the grant of bail to the accused applicant.

7. I have considered the submissions made by the learned counsels for both the sides and have perused the materials on record, including the Case Diary of Itanagar W.P.S. Case No. 34/2024.

8. On perusal of the Case Diary, it appears that the main accused against whom the offence of rape is alleged is one *Kin Bhai* and the allegation against the present applicant is that he accompanied the main accused on the faithful day of the incident and was present in the hotel on that day. On Perusal of the Case Diary, it appears that investigation has fairly progressed and is almost complete and considering the role of the applicant in the alleged offence, as appears from the Case Diary as well as considering the period of detention already undergone by the present applicant, this Court is of the considered opinion that if the applicant abide by the conditions imposed on him by this Court while granting bail, his custodial detention may not be necessary for fair completion of the investigation of Itanagar W.P.S. Case No. 34/2024.

9. In view of the above, the accused applicant, namely, *Tacha Ako* is allowed to go on bail on furnishing a bail bond of Rs. 30,000/- with one surety of like amount to the satisfaction of the learned Special Judge, POCSO, Yupia, subject to the following conditions:

(i). That the accused applicant shall not directly or indirectly make any inducement, threat or promise to the victim girl or any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts either to the Police officer or to the Court;

(ii). That the accused applicant shall co-operate in the investigation of the case and appear before the Investigating Officer as and when required.

10. If any of the above, mentioned condition is violated by the accused

applicant, same may be a good ground for cancellation of the bail granted to the applicant.

11. With the above observations, this bail application is hereby disposed of.

JUDGE

Comparing Assistant