

GAHC010000082024



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

Case No. : Bail Appln./27/2024

AMIR HUSSAIN
S/O LATE MIJANUR RAHMAN
R/O WARD NO. 8,
HOWLY TOWN, P.S. HOWLY
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 11.01.2024

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. M. Alamgeer, learned counsel for the accused and Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by the accused,

namely, Amir Hussain, who has been languishing in jail hazot in connection with Dispur P.S. Case No. 2364/2023, under Sections 354/354A/354B/509 of the IPC.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Smt. X (name withheld), Junior Assistant, Directorate of Elementary Education, Assam, on 30.12.2023. The essence of allegation made in the FIR dated 30.12.2023 is that on 30.12.2023, at about 3:45 p.m., she went to the chamber of the accused to invite him to farewell function of Mayuri Puzari, whose retirement was due on 31.12.2023. Thereafter, the accused caught hold of her hand and dragged her towards him and kissed her and molested her by touching different parts of her body.

4. Mr. Choudhury, the learned Senior counsel for the accused submits that the accused was arrested on 31.12.2023, and since then, he has been languishing in jail hazot for last 12 days. Mr. Choudhury further submits that given the nature of allegation, further custodial detention of the accused may not be required in the interest of investigation and as such, Mr. Choudhury has contended that the accused may be enlarged on bail.

5. On the other hand, Mr. R.J. Baruah, learned Addl. Public Prosecutor submits that investigation of the case has progressed sufficiently and the case diary indicates that the statement of the victim girl has been recorded under Section 164 Cr.P.C., and some witnesses have also been examined.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. R.J. Baruah, learned Addl. Public Prosecutor.

7. The case diary indicates that the accused was arrested on 31.12.2023, and since then, he has been languishing in jail hazot. The case diary also indicates

that the I.O. has achieved sufficient progress in the investigation of this case, and in that view of the matter, further custodial detention of the accused, in the interest of investigation, seems to be not warranted in this case, and therefore, this Court is inclined to allow the petition.

8. It is provided that on furnishing a bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned CJM, Kamrup(M), the accused be enlarged on bail. The above privilege is, however, subject to the following two conditions:

- (i) He shall not leave the jurisdiction of CJM, Kamrup(M), without prior permission;
- (ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the accusation against him, so as to influence him.

9. In terms of above, this petition stands disposed of.

10. Case diary be returned.

JUDGE

Comparing Assistant