

GAHC010002512024



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

Case No. : Bail Appln./33/2024

MD JANNAT ISLAM
S/O. MD. MOFIZUDDIN, VILL- AHMEDPUR BLOCK, P.S- BIHPURIA, DIST.
LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PP, ASSAM

2:MUSTT. RAHIMA KHATUN
W/O-LT SOHARUDDIN
VILL-AHMEDPUR BLOCK
P.S-BIHPURIA
DIST-LAKHIMPUR
ASSA

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

29.01.2024

Heard Mr. M.H. Ahmed, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal

Procedure, 1973, is preferred by accused namely, **Md. Jannat Islam**, who has been languishing in jail hazot in connection with the **Bihpuria P.S. Case No. 184/2023**, under Sections 376[3]/313 of the IPC, read with Section 6 of the POCSO Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one Rohima Khatun, on 16.10.2023. The essence of allegations made in the FIR is that one Jannat Islam has impregnated her 13 years old daughter, Smti 'X' [name withheld] and about 10 days back got her pregnancy aborted at hospital and she has been suffering from pain in her stomach.

4. Mr. Ahmed, learned counsel for the accused submits that the accused was arrested on 01.11.2023, and since then he has been languishing in jail hazot for last 90 days and till date no charge sheet has been submitted by the IO and as such, he is entitled to default bail.

5. On the other hand Mr. Barua, learned Additional Public Prosecutor while not disputing the submission of Mr. Ahmed, learned counsel for the accused, submits that till date no charge sheet has been submitted by the IO and the case diary is lying with him.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the records and the documents placed on record.

7. It appears that the accused was arrested on 01.11.2023, and since then he has been languishing in jail hazot for last 90 days and till date no charge sheet has been submitted by the IO. As the case has been registered under Sections 376[3]/313 of the IPC, read with Section 6 of the POCSO Act the mandatory period is 90 days. As such, the accused is entitled to default bail

under Section 167[2] Cr.P.C.

8. Accordingly it is provided that on furnishing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the learned **Special Judge, POCSO Act, Lakhimpur, North Lakhimpur** the accused be enlarge on bail.

9. In terms of above this BA stands disposed of.

10. The case diary be returned.

Comparing Assistant

JUDGE