

GAHC010004732024



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

Case No. : Bail Appln./99/2024

MOTIOR RAHMAN @ ABDUL MOTIBAR SK
S/O- BATEN ALI SK @ BATEN ALI, R/O- VILLAGE- SOUTH GERAMARI, P.S.
GAURIPUR, DISTRICT- DHUBRI, ASSAM, PIN- 783331

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P.

2:SONAM UDDIN
S/O-MANO HAR ALI
VILL- FALIMARI PT-I
P.O- FALIMARI
P.S-DHUBRI DIST-DHUBRI
ASSAM
PIN-78332

Advocate for the Petitioner : MR. M HOSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

27.02.2024

Heard Mr. Z.H. Ahmed, learned counsel for the accused and Mr. R.J. Barua, learned Addl. P.P. for the State respondent.

2. This application, under Section 439 of the Cr.P.C. is preferred by

accused namely, **Motior Rahman @ Abdul Motibar Sk**, who has been languishing in jail hajot since 16.12.2023, in connection with **Dhubri P.S. Case No. 499/2023**, under Section 365 of the IPC, for grant of bail.

3. The above noted case has been registered on the basis of an FIR lodged by one Sonamuddin, on 30.11.2023. The essence of allegation made in the FIR is that on 28.11.2023, at about 9:00 am, his daughter Smt. 'X' (name withheld), aged 17 years 10 months 19 days, went to Dhubri Academy School and since then she has not returned to home. Thereafter, on 29.11.2023, at about 5:00 pm, his daughter informed him over phone that she along with the accused Motior Rahman left for Siliguri by train and she does not know her destination.

4. Mr. Ahmed, learned counsel for the accused submits that the accused was arrested on 16.12.2023, and since then he has been languishing in jail hajot for last 36 days. Mr. Ahmed further submits that the victim girl has eloped with the accused at her own will and though she has been shown as 17 years 10 months 19 days, yet she is major. Mr. Ahmed also submits that in view of the interest of investigation, further custodial detention of the accused may not be required and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor submits that he has not received the case diary, but he has the instruction that the I.O. has already completed the investigation and laid Charge-Sheet against the accused, under Section 365 of the IPC read with Section 6 of the POCSO Act, vide Charge Sheet No. 54/2024, dated 19.02.2024.

6. In view of above, this Court is inclined to dispose of this bail application by directing the accused to approach the learned court below, by filing appropriate application and in event of filing such an application, the

learned court below shall consider of the same in accordance with law.

Comparing Assistant

JUDGE