

GAHC010007192024



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

Case No. : Bail Appln./134/2024

SOFIUR RAHMAN
S/O- GADU SHEIKH, R/O- VILL- CHATIPUR, P.S. DHALIGAON, DIST.-
CHIRANG, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

2:MAHAR ALI
S/O- DULAL ALI
R/O- GABHARU GRANT
P.S. TEZPUR
DIST.- SONITPUR
ASSAM
PIN- 78400

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

12.01.2024

Heard Mr S C Biswas, learned counsel for the petitioner, Sofiur Rahman.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for

bail, as he is behind bars since 17.10.2023, in connection with Bongaigaon PS Case No. 441/2023, under Section 306 IPC, read with Section 75 of the JJ Act, added Section 376(2) (i) IPC, read with Section 4/17 of the POCSO Act and Section 3 (1) (2) (a)/4(1)/5(1)(a)(d) of the Immoral Traffic (Prevention) Act, 1956.

3. Heard Mr D P Goswami, learned Additional Public Prosecutor for the State of Assam.

4. The FIR unfolds that the accused Komala Khatun and Sofiur Rahman called the victim on 09.10.2023 at about 10:00 am, and detained her in the house of Bijit Das at Dhaligaon. Later, on 15.10.2023, at about 10:00 am, the accused named in the FIR informed the victim's father over phone that his daughter committed suicide by hanging. The informant has strong suspicion that the accused named in the FIR had tortured the victim.

5. The learned counsel for the petitioner has submitted that the prime accused, Komala Khatun was granted bail vide order dated 18.12.2023, in connection with Bail Application No. 4047/2023.

6. It is submitted by the learned counsel for the petitioner that the petitioner is behind bars for 88 days. His personal liberty will be curtailed if he is not granted bail.

7. Case Diary has not been received.

8. The learned Additional Public Prosecutor has raised objection stating that the petitioner is named in the FIR and without perusal of the Case Diary bail cannot be

granted to the petitioner. There may be incriminating materials in the Case Diary against the petitioner. It cannot be ascertained without the Case Diary as to whether charge sheet has been laid against the petitioner.

9. Notices were not issued to the respondent No. 2.

10. I have considered the submissions at the Bar with circumspection.

11. Considering the peculiar circumstances of this case, the petitioner is directed to approach the learned trial Court and apply for regular bail, which may be considered by the learned trial Court as per law.

12. Bail Application stands disposed of.

JUDGE

Comparing Assistant