

GAHC010007882024



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

Case No. : Bail Appln./153/2024

NASIRUDDIN
S/O ABDUL BAREK,
R/O VILL 2 NO. SHYAMPUR, P.O. AND P.S. SHYAMPUR, DIST. DARRANG,
ASSAM, PIN-784115.

VERSUS

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

2:SAMINA BEGUM
W/O GULZAR HUSSAIN
R/O VILL- 2 NO. SHYAMPUR
P.O. AND P.S. SHYAMPUR
DIST. DARRANG
ASSAM
PIN-78411

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 13-03-2024

Heard Mr. A. A. R. Karim, learned counsel for the accused. Also heard Mr. R. J. Baruah, learned Addl. P.P. for the State respondent and Mr. M.G.K Rahman,

learned counsel for respondent No.2.

This application, under Section 439 Cr. P. C. is preferred by accused, Sri Nasiruddin who has been languishing in jail hajot, in connection with Shyampur P. S. Case No. 39/2023, under Sections 448 /354 A (1) (i) (ii)/ 354 (B)/ 376 AB/ 511 IPC R/w Section 4/12 of POCSO Act, (G.R 1714/2023), for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one Samina Begum on 21.11.2023.

The essence of allegation, made in the FIR, dated 21.11.2023., is that on 20.11.2023 at about 6 PM in the afternoon, accused Nasiruddin visited the house of the informant, while the male members of her family were absent and while she was busy in the kitchen, then the accused had shown obscene video to her minor daughter namely, Smt.'X', aged six years and while she came out from the kitchen, she has noticed the accused touching the private part of her daughter and while she raised alarm, then the accused fled away.

The learned counsel for the accused submits that the accused was arrested on 22.11.2023 and since then he has been languishing in jail hajot for last 101 days. Mr. Karim learned counsel for the accused further submits that I.O. has already completed investigation and submitted charge sheet against the accused and accused is ready to face trial and therefore, it is contended to allow the petition.

On the other hand, Mr. Barua, learned Addl. P.P. has opposed the petition on the ground that in her statement u/s 164 Cr.P.C., the victim has clearly implicated the accused with the offence.

On the other hand, learned counsel for the respondent No.2 submits that the informant and the accused are family members and as such, he has no objection in the event of allowing the petition.

Having heard the submission of learned Advocates of both the sides and I have carefully gone through the petition and the documents placed on record and also perused the scanned copy of the record received from the learned Court below.

It appears that investigation of the case has already been completed and the charge sheet has been laid before the learned Court below, being Charge sheet No. 40/2023 dated 30.11.2023 u/s 448 /354 A (1) (i) (ii)/ 354 (B)/ 376 AB / 511 IPC. Though charge sheet has already been submitted u/s 376 AB / 511 IPC yet, to a pointed query of this Court, the learned Addl. P.P.fairly submits that the said Section may not be attracted in the case in hand. Further it appears that the accused has been languishing in the jail hajot for last 101 days.

In view of the above and also in view of the facts and circumstances on the record, this Court is inclined to allow this petition. It is provided that on furnishing a bond of Rs.50,000/- with one surety of like amount to the satisfaction of the learned Special Judge, POCSO, Darrang, Mangaldoi the accused be enlarged on bail.

JUDGE

Comparing Assistant