

GAHC010010412024



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

Case No. : Bail Appln./232/2024

MOFAJJEL ALI @ MOTO
S/O LATE ABDUL GOFUR
R/O VIL- DUMERGURI
P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN-783384

VERSUS

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

2:SAHIDA KHATUN
W/O MOFIDUL ISLAM
D/O NUR ISLAM
R/O VILL- KHATAKUCHI
P.S. SORBHOG
DIST. BARPETA
ASSA

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

06.03.2024

Heard Mr. A. Roshid, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Addl. P.P, Assam for the State respondent and Mr. A. Mobaraque, learned counsel for the respondent No. 2/victim.

This is an application under Section 439 of Cr.PC, 1973 for granting bail to the petitioner, namely Mofajjel Ali @ Moto, who was arrested on 26.10.2023 in connection with Jogighopa P.S Case No. 270/2023 registered under Sections 365/376/506/34 IPC.

The case of the prosecution is that the respondent No. 2 lodged an FIR on 24.10.2023 alleging inter alia that about 3 (three) months ago, the FIR mentioned accused No. 1 committed rape upon the informant. In the aforesaid FIR, it was further alleged that the present petitioner called up the informant and asked her to come near the Pharmacy and after she came, the present petitioner alongwith other co-accused forcefully kidnapped her with her 1 ½ years old child and took her to Bilasipara where she was kept confined.

Mr. A. Roshid, learned counsel for the petitioner submits that the petitioner has been languishing in jail since last 132 days. He further submits that there is no allegation against the petitioner as regards committing rape upon the informant.

Mr. K.K. Das, learned Addl. P.P, Assam on the other hand strongly opposes the prayer for bail. He submits that the victim in her statement recorded under

Section 164 Cr.PC has clearly implicated the present petitioner to the effect that the present petitioner helped the co-accused persons to kidnap her. He further submits that the investigation has been completed and Charge-sheet has been submitted.

He further submits that charge is yet to be framed in the matter and that if the petitioner is enlarged on bail, there is a likelihood that he may influence the victim as her statement is yet to be deposed before the Court.

Mr. A. Mobaraque, learned counsel for the respondent No. 2/victim submits that in the event if the petitioner is enlarged on bail, there is no likelihood of him threatening the informant/victim.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears that the trial is yet to begin and there are about 7 witnesses. In view of the above, this Court is of the considered view that further detention of the petitioner is not justified.

Accordingly, it is provided that the accused/petitioner named above shall be released on bail of Rs. 30,000/- with one surety of like amount to the satisfaction of the learned Judicial Magistrate 1st Class, North Salmara, Abhayapuri in connection with the above noted case, subject to the following conditions:-

- (i) That the petitioner shall appear before the Trial Court on all dates fixed from time to time.

- (ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts to the Court or to any Police Officer.
- (iii) Learned Trial Court may impose any additional condition of bail if it deems fit to do so, at any time, while the petitioner is enlarged on bail.

With the above observation, the Bail Application stands disposed of.

Return the Case Diary.

JUDGE

Comparing Assistant