

GAHC010010552024



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

Case No. : Bail Appln./189/2024

HAZARAT ALI @ HORJT ALI
S/O MD. JALAL UDDIN
R/O VILL NO. 3 SHYAMPUR P.S. SHYAMPUR
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:MISS ABIDA KHATUN
D/O- MD. ABDULLAH
R/O- VILL-NO.4 SHYAMPUR
PS- SHYAMPUR
DISTRICT- DARRANG (ASSAM)

Advocate for the Petitioner : MS. N M DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 23-02-2024

Heard Ms. M. M. Deka, learned counsel for the accused. Also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent and Ms. M. Barman, learned

counsel for the informant.

This application, under Section 439 Cr. P.C. is preferred by accused, Hazarat Ali @ Horjt Ali who has been languishing in jail hajot since 15.10.2023, in connection with Special (POCSO) Case No. 120/2023, under Sections 376 (D) IPC R/W Section 6 of POCSO Act arising out of Shyampur P.S. Case No. 31/2023, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one Smt. 'X' (name withheld) on 5.10.2023.

The essence of allegation made in the FIR dtd 5.10.2023 is that on 29.9.2023 at about 8 PM two persons, namely, Hazarat Ali and Abed Ali committed rape upon her.

Ms. Deka, learned counsel for the accused submits that the accused is languishing in jail hajot for last 132 days and the accused is innocent and no way involved with the offence alleged in the FIR and therefore, it is contended to allow this petition.

On the other hand, Mr. R. J. Boruah, learned Addl. P.P. submits that the accused has already been charge sheeted and case is pending for consideration of charge and as such, Mr. Barua has opposed the petition stating that without framing of charge and without recording the evidence of victim, if the accused is enlarged on bail, he will tamper the witnesses.

On the other hand, Ms. Barman learned counsel for the informant submits that she has no objection in the event of enlarging the accused on bail.

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

It appears that the case has already been charge sheeted and the next date

was fixed on **1.2.2024** for consideration of charge. Further, it appears from the materials collected so far in the charge sheet and also considering the statement of the victim girl, recorded u/s 164 as well as 161 Cr.P.C., this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused, at this stage, and accordingly, this petition stands dismissed.

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JUDGE

Comparing Assistant