

GAHC010012432024



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

Case No. : Bail Appln./265/2024

SUKUR ALI
S/O JAKIR HUSSAIN @ JAKIR ALI
A RESIDENT OF KHANKA HOUSEFED
P.S. HATIGAON
DIST. KAMRUP (M)
ASSAM
PERMANENT RESIDENT OF PATHARGHAT

P.O. SHAMTLA BAZAR
P.S. DHULA
DIST. DARRANG
ASSAM

VERSUS

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

2:SAHIDA BEGUM
W/O SADDAM MIA
A RESIDENT OF KHANKA HOUSEFED
P.S. HATIGAON

DIST. KAMRUP (M)
ASSAM
C/O OFFICER-IN-CHARGE
HATIGAON POLICE STATION
HATIGAON
GHY-38

Advocate for : MR. A R BHUYAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 21.02.2024

Heard Mr. A.R. Bhuyan, learned counsel for the accused-petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the state respondent and Mr. S. Das, learned counsel for the respondent No. 2.

This is an application filed under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioner, namely, **Sukur Ali**, in connection with **Sessions (Spl.) Case No. 219/2023(arising out of Hatigaon P.S. Case No. 257/2023)**, registered **under Section 376AB IPC r/w Section 4 of POCSO Act**, pending in the court of learned Special Judge POCSO, Kamrup(M), Guwahati.

It has been submitted by the learned counsel for the accused/petitioner that the petitioner has been languishing in jail hazot since 07.08.2023. It is also submitted that the petitioner and the victim are the adjacent neighbour. The petitioner has a mobile phone which was used to watch cartoon by the victim for which the mother of the victim always took the said mobile phone. On the relevant date of the incident, the mother of the victim took the mobile phone of the petitioner but the same was not returned to the petitioner for which a quarrel took place between them. From that incident, the mother of the victim lodged an FIR by creating concocted story against the petitioner. The petitioner

is no way connected with the alleged offence. Considering the period of detention as well as the background of the case, the petitioner may be enlarged on bail.

On the other hand, Mr. Das, learned Additional Public Prosecutor for the State has vehemently objected to the prayer of the accused/petitioner by stating that the petitioner is the person who had committed the offence as alleged in the FIR. It is further submitted that in this case, charge has been framed on 27.12.2023. It is also submitted that there is sufficient incriminating materials found against the petitioner. Considering the nature of offence, the prayer of the petitioner may not be considered at this stage.

Mr. Das, learned counsel representing the respondent No. 2 has also submitted in the same tune by stating that two minor girls have been sexually abused by the petitioner. Medical report has also supported that fact. Witnesses would prove the case during trial. Allowing the petitioner to go on bail would hamper the proceedings of the trial.

I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of the LCR including the statement of the victim recorded under Section 164 Cr.P.C. and medical report.

Filing of charge-sheet against the petitioner shows that he has been involved in the alleged offence as stated in the FIR. The medical report of the victim girl suggests that the victim has been sexually abused. The relevant case pertains to penetrative sexual assault to the minor girl child which is a grave concern now-a-days.

On consideration of the matter in its entirety, this Court is of the view that this is not a fit case for grant of bail to the accused/petitioner, at this stage.

Therefore, prayer for bail is **rejected**.

The bail application stands disposed of accordingly.

JUDGE

Comparing Assistant