

GAHC010015972024



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

Case No. : Bail Appln./234/2024

RAKIBUL ISLAM @ RAKIBUL HOQUE
S/O AIJAL HOQUE @ AZIZUL HAQUE
R/O VILL- UNNEKURI
P.S. GOBARDHANA
DIST. BAKSA, ASSAM
PIN CODE- 781317

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.02.2024

Heard Mr. A.K. Hussain, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Rakibul Islam @ Rakibul Hoque**, who has been languishing in jail hazot since 23.11.2023, in connection with the **Gobardhana P.S. Case No. 179/2023**, under Sections 120[B]/376[n]/313 of

the IPC, for granting bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Manija Khatun, on 22.11.2023. The essence of allegations made in the FIR is that her daughter Smti 'X' [name withheld] aged 19 years, had love affairs with one Rakibul islam of Unnekuri Village and he had committed sexual intercourse with her on several occasions and impregnated her and when the matter was reported in his house, he denied the allegation and he had taken her daughter to Doctor and got her pregnancy terminated.

4. Mr. Hussain, learned counsel for the accused submits that the accused was arrested on 23.11.2023, and since then he has been languishing in jail hazot for last 79 days. Mr. Hussain further submits that this is the second bail application preferred by the accused on the ground of length of detention. Mr. Hussain also submits that the earlier bail application one was rejected by this Court, vide order dated 05.01.2024, in BA No. 4532/2023. Mr. Hussain also submits that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand Mr. Barua, learned Additional Public Prosecutor by producing the case diary before this Court submits that the IO has collected sufficient incriminating materials against the accused. Mr. Barua further submits that after rejection of the earlier bail application there is no change of circumstances in favour of the accused. Mr. Barua also submits that the investigation is still going on and that the allegations are serious in nature and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the case diary with the assistance of learned Additional Public Prosecutor.

7. Perusal of the case diary reveals that the IO has collected sufficient incriminating materials in support of the allegation made in the FIR. Further, it appears that after rejection of the earlier bail application on 05.01.2024, there is no change of circumstances in favour of the accused to entertain this second application and after rejection of the first application after perusing the case diary, the length of detention cannot be a justified ground. Moreover, the offences are serious in nature and investigation is still going on and enlarging the accused on bail at this stage will misdirect the investigation.

8. In view of above, this Court is of the view that this is not a fit case where the privilege of bail can be extended to the accused.

9. Accordingly, the petition stands dismissed.

10. The case diary be returned.

Comparing Assistant

JUDGE