

GAHC010027012024



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

Case No. : Bail Appln./385/2024

ABDUL LATIF
S/O LATE ABDUL KADIR
VILL- PASCHIM DABLONG
P.S. LANKA
DIST. HOJAI, ASSAM

VERSUS

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

2:MSSTT. SAHERA KHATUN
W/O ABDUL SATTAR
VILL- PASCHIM DABLONG
WARD NO. 8
P.S. LANKA
DIST. HOJAI
ASSA

Advocate for the Petitioner : MD B ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

04.03.2024

Heard Mr. B. Islam, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 439 of Code of Criminal Procedure, 1973 praying for releasing the petitioner on regular bail, who has been languishing in jail since 17.09.2023 in connection with Special POCSO Case No. 274/2023 arising out of Lanka P. S. Case No. 425/2023, registered under Section 376 (A) (B) of IPC read with Section 4 of the POCSO Act.

It is seen that the service is completed upon the respondent No.2 and today, she appeared personally before the Court and being an illiterate person, she could not engage an Advocate for herself.

The scanned copy of the LCR has already been received and I have perused the same.

Mr. Islam, the learned counsel for the petitioner submits that the petitioner is innocent and no way involved in the alleged offence. The FIR has been lodged only on the ground of previous enmity and personal grudge. He also submitted that the informant side had demanded 2,50,000/- (Rupees Two lakhs fifty thousand) only for compromising the matter, but, the petitioner refused to go for compromise stating that it is a non compoundable offence. More so, he was arrested on 17.09.2023 and till date, he is in custody, and hence, considering the length of detention, the learned counsel for the petitioner prays to grant regular bail to the accused/petitioner and he is ready to contest the case, if he is enlarged on bail.

In this context, Mr. Gogoi, learned Additional Public Prosecutor submits that this is not at all a fit case, wherein, the bail can be granted to the accused/petitioner. He also submits that the statement of the victim has been recorded under Section 164 of Cr. P. C. which reveals that the victim is a minor and had described the entire incident and the case is at the stage framing charge. Thus, at this stage, if the accused/petitioner is released on bail, then, there is every possibility of hampering and tampering of the witnesses of the prosecution and therefore, he raised objection in allowing the accused/petitioner to go on bail.

Considering the submissions of the learned Counsels for both sides and also considering the materials available in the LCR as well as statement of the minor victim recorded under Section 164 of Cr.P.C, it is seen that the victim had described in detail how she was subjected to sexually assault by the accused/petitioner, thus, the probability of hampering and tampering of the evidence cannot be denied, and accordingly, I am of the view that this is not a fit case to allow the accused/applicant to go on bail at this stage and accordingly, the same stands rejected.

In terms of above, this Bail Application stands disposed of.

The LCR be returned.

JUDGE

Comparing Assistant