

GAHC010030912024



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

Case No. : Bail Appln./470/2024

RITU BORDOLOI
S/OKAMESWAR BORDOLOI
R/O KHOLAGAO, SUB-DIST. MAYONG, DIST. MORIGAON, ASSAM, PIN-
782411

VERSUS

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

2: PURAN BORDOLOI
S/OLT. ALAKSING BORDOLOI

R/O GAMARIGURI
HARIYABORI
MORIGAON
P.S. MORIGAON
ASSA

Advocate for the Petitioner : MR. B KONWAR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 04.04.2024

- 1)** Heard Ms. D. Dutta, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent as well as Mr. A. K. Dutta, learned counsel for the respondent no.2, who is the father of the victim.
- 2)** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Ritu Bordoloi who has been detained behind the bars since 01.08.2023 (for the last 247 days) in connection with Special POCSO Case No. 285/2023 under Section 366/376(3) of the Indian Penal Code read with Section 6 of the POCSO Act, 2012.
- 3)** The gist of the accusation in this case is that on the basis of FIR lodged by the respondent no. 2 on 25.07.2023 before the Officer-In-Charge of Morigaon Police Station, *inter-alia*, alleging that the daughter of the first informant has been eloped by the present petitioner.
- 4)** On receipt of the said FIR, Morigaon P. S. case No. 286/2023 was registered under Section 365/376 (3) of the Indian Penal Code read with Section 6 of the POCSO Act, 2012 and investigation was initiated.
- 5)** Ultimately, the charge sheet was laid against the present petitioner under Section 365/376 (3) of the Indian Penal Code read with Section 6 of the POCSO Act, 2012.
- 6)** Learned counsel for the petitioner has submitted that there are 9 listed

witnesses in the charge-sheet and it is submitted that out of those 9 listed witnesses, 4 witnesses have already been examined including the victim as well as the first informant.

7) Learned counsel for the petitioner has submitted that as the petitioner has been detained behind the bars since 01.08.2023 and as the victim as well as informant has already been examined, the further custodial detention of the present petitioner during the trial is not necessary.

8) It is also submitted by learned counsel for the petitioner that the statements of witnesses are contrary to each other.

9) On the other hand, learned Additional Public Prosecutor has opposed the grant of bail to the present petitioner on the ground that victim has implicated the present petitioner. However, learned counsel for the informant, who is the father of the victim girl does not oppose the prayer for bail of the present petitioner.

10) I have considered the submission made by learned counsel for both the sides and have perused the materials available on record including the scanned copy of case diary of Special POCSO Case No. 285/2023.

11) As the victim girl and informant, who is the father of the victim has already been examined and as the respondent No. 2 has not opposed the grant of bail to the present petitioner, this Court is of considered opinion that further custodial detention of the petitioner does not appear to be necessary for fair completion of the Special POCSO Case No. 285/2023.

12) In view of the above, the petitioner, namely, Ritu Bordoloi is hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the learned Special Judge (POCSO), Morigaon with the following conditions:

- i. That the petitioner shall cooperate in the investigation.
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

With the above observation, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant