

GAHC010031292024



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

Case No. : Bail Appln./448/2024

MOFIDUL ISLAM
R/O TAPATTARY,
P.S. ABHAYAPURI,
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

05.03.2024

Heard Mr. S.K. Chhetry, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 for granting of regular bail to the accused petitioner, i.e.

Mofidul Islam, who was arrested on 04.02.2024, in connection with Abhayapuri Case No. 549/2022, under Section 376 of the IPC.

The prosecution case is that on 26.12.2022, the informant by filing an FIR stated that her daughter, i.e. Mafuja Khatun, aged about 19 years has revealed to her in the morning of 25.12.2022, that about 10 months back the petitioner with the promise of marriage and by enticement made illegal physical relation with her because of which she conceived a child and finally at the time of delivering, the child was found dead.

Accordingly, a case was registered.

Mr. S.K. Chhetry, learned counsel for the petitioner, submits that the petitioner is no way involved in this alleged case and that he does not know the informant and her family members and the petitioner is a married person and has been falsely implicated in this case.

Mr. P. Borthakur, learned Additional Public Prosecutor, on the other hand, strongly opposes the prayer for regular bail. He submits that the statement of the victim girl has been recorded under Section 164 of the Cr.P.C. whereby, she has implicated the accused of committing forceful sexual relation without her consent.

I have heard the submissions made at the bar and perused the materials available on record.

It appears from the materials collected by the Investigating Officer during investigation that the statement of the witnesses including the victim and the accused has been recorded. It appears that the investigation has progressed substantially.

It further appears that the petitioner was last interrogated on 04.02.2024, i.e. the date of arrest.

It also appears that the petitioner has been languishing since last 31 days.

Considering the totalities of the matter, this court is of the considered view that further detention of the petitioner is not justified.

For the aforesaid reasons, the above named petitioner, namely, Mofidul Islam is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate, North Salmara, Abhayapuri in connection with the above mentioned case, subject to the conditions that:-

- (i) the petitioners shall co-operate in the investigation and shall appear before the Investigating Officer as and when so required by the trial court; and
- (ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from deposing against the petitioners in the pending trial against them.
- (iii) the trial court may impose any additional condition if it deems fit to do so for the sake of fair trial against the petitioner.

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

JUDGE

Comparing Assistant