

GAHC010033922024



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

Case No. : Bail Appln./472/2024

SHOMZAN KHATUN @ MUNNI
W/O AKTAR HUSSAIN
R/O VILL- KALAPANI, P.S. MANKACHAR,
DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

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

2:ROFIQUL ISLAM
S/O ABED ALI
VILL- MAISHALDANGA
P.O.RADHAMADHABHAT
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM, PIN-78313

Advocate for the Petitioner : MR. M KHAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15-03-2024

Heard Mr. M. Khan, learned counsel for the accused. Also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent No.1 and Mr. K. R. Patgiri, learned counsel for the respondent No.2.

This application, under Section 439 Cr.P.C. is preferred by accused, Shomzan Khatun @ Munni, who has been languishing in jail hajot in connection with Mankachar P.S. Case No. 24/2024, under Sections 376(2) (n)/376(3)/ 317 IPC read with Section 6 of POCSO Act, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by Mizanur Rahman Sheikh on 24.1.2024.

The essence of allegation, made in the FIR, dated 24.1.2024, is that one victim girl, namely, Smt. 'X' (name withheld), aged 16 years, had given birth to a female child at District Civil Hospital, Hatsingimari as a consequence of her illicit love affairs. And after the delivery, the victim had heard the cry of new born baby and wanted to see the baby, but one Rebeca Sultana with conspiracy of the delivery Nurse and without showing the baby to her, handed over the baby to someone else.

Mr. Khan, learned counsel for the accused submits that the present accused has been working as Nurse in District Civil Hospital, Hatsingimari and that he is no way involved with the offence alleged and that the baby has already been recovered and handed over to her mother. Mr. Khan, learned counsel for the accused also submits that the accused is ready to cooperate with the investigating agency and therefore Mr. Khan submits that she may be allowed to go on bail.

Whereas, Mr. R. J. Barua, learned Addl. P.P. has produced the case diary before this Court and submits that the stolen baby has already been recovered and handed over to the mother and that the present accused has not been implicated by the informant and the investigation is sufficiently progressed herein this case.

On the other hand, Mr. Patgiri, learned counsel for the respondent No. 2

submits that the respondent No. 2 has filed one affidavit stating that she has no knowledge about involvement of the present accused with the offence alleged in the FIR.

Having heard the submission of learned Advocates of both the parties, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P.

Indisputably, the baby was recovered and handed over to her mother. The case diary also indicates that the I.O. has achieved substantial progress in the investigation of the case and material part of the investigation is almost over, and in that view of the matter, further custodial detention of the accused seems to be not warranted here in this case. And therefore, this Court is inclined to allow this petition. It is provided that on furnishing a bond of Rs.50,000/-with one surety of like amount to the satisfaction of learned Special Judge, POCSO, South Salmara, the accused be enlarged on bail.

Case diary be returned.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant