

GAHC010038542024



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

Case No. : Bail Appln./514/2024

AJAY KUMAR PAUL
R/O NARENGI, BONDA COLONY
CHANDRAPUR ROAD, NEAR SYNDICATE BANK, GUWAHATI,
DIST. KAMRUP (M), ASSAM
PIN-781026

VERSUS

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

2:SMT. BHARGAVI PAUL
R/O NARENGI
BONGA COLONY
CHANDRAPUR ROAD

NEAR SYNDICATE BANK

GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-78102

Advocate for the Petitioner : MR. T N DAS

Advocate for the Respondent : PP, ASSAM

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

07.03.2024

Heard Ms. J. Das, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent No. 1 and Ms. R. Gogoi, learned counsel appearing on behalf of the respondent No. 2/informant.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested in connection with All Women P.S. Case No. 57/2023, under Section 498(A) of the Indian Penal Code *read with* Section 10 of the POCSO Act.

Scanned copy of the case record along with the Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Ms. J. Das, learned counsel for the petitioner, that the accused/petitioner is innocent and it was a family dispute and only due to some misunderstanding, the F.I.R. was lodged by the wife of the present petitioner. But presently she has no objection if her husband/accused is released on bail. Earlier the petitioner approached this Court with a petition for bail, but as the case was Charge-Sheeted, this Court directed the accused/petitioner to appear before the learned Court below with an appropriate application for bail and also asked the learned Trial Court to consider his length of detention while passing the order on bail. As per the direction of this Court, the accused/petitioner appeared before the learned Court below with a petition for bail and the informant of this case also appeared with a no objection petition. But, in spite of that, the learned Special Judge, POCSO (In-Charge) had rejected the bail prayer of the accused/petitioner considering the nature and gravity of the offence. Further, the accused/petitioner is ready to face the trial and will appear before the Court regularly if he is granted with the privilege of bail.

In this context, Mr. B. B. Gogoi, learned Additional Public Prosecutor, has submitted that from the statement made by the victim under Section 164 Cr.PC., it cannot be a case of misunderstanding

and if the accused is released on bail, he will again stay with the victim as well as the informant which may cause to the hampering or tampering with the witnesses.

Ms. R. Gogoi, learned counsel appearing on behalf of the respondent No. 2/informant, also submitted in this regard that it was merely a family dispute and only on misunderstanding, the F.I.R. was lodged against the present accused/petitioner. However, at present, the informant has no objection if he is released on bail as the matter is settled amicably between the parties and the F.I.R. was filed merely on misunderstanding of facts.

Considering the submissions made by the learned counsels appearing on behalf of the parties, I have also perused the scanned copy of the case record, wherefrom, it reveals that the victim girl brought sufficient allegation against his own husband, i.e. the accused/petitioner, apart from the allegation of torture brought by the present informant. It is a fact that the release of the accused on bail may hamper or tamper with the evidence of the witnesses and the victim, but it is also seen that the informant herself filed the no objection in the form of affidavit, wherein it is stated that the F.I.R. was lodged due to misunderstanding. The victim girl or the daughter of the informant is still staying in the care and custody of the informant and hence, at this stage also, the probability of hampering with the evidence of the minor victim cannot be denied. However, as the girl is already in the custody of the informant, who is her mother, the release of the accused will also not cause any change of circumstances.

In view of the above aspect of the case and also considering the length of detention already undergone by the accused/petitioner, I am of the view that the accused/petitioner can be released on bail.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, POCSO, Kamrup(M), the accused/petitioner, namely, Shri Ajay Kumar Paul, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall appear before the Court as and when the date is fixed;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Special Judge, POCSO, Kamrup(M), without prior permission.

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

JUDGE

Comparing Assistant