

GAHC010044782024



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

Case No. : Bail Appln./593/2024

SMTI. RITUSHREE KALITA
D/O ANIMA KALITA
R/O 4TH APBN KAHILIPARA,
GUWAHATI, ASSAM

VERSUS

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

2:BOBITA RABHA
W/O HITESH RABHA
9508339983
H. NO. 20
SEUJPUR NEAR DGM OFFICE
KAHILIPARA
GUWAHATI
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. A BHATTACHARYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

12.03.2024

Heard Mr. A. Bhattacharya, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Smti Ritushree Kalita**, who has been languishing in jail hazot since 22.02.2024, in connection with the **Dispur P.S. Case No. 139/2024**, under Sections 323/ 342/ 379/ 506/ 34 of the IPC, read with Section 4 of the POCSO Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Bobita Rabha, on 20.02.2024. The essence of allegations made in the FIR is that on 18.02.2024, at about 6 pm, her daughter Smti 'X' (name withheld), aged 14 years, went out of her home, did not return to home on that night and also she found her mobile switch off. Then she returned home on 19.02.2024, at about 8 am. Thereafter, at about 9 am, she again gone out and returned home at about 3 pm, then she notice swelling over her cheek. Thereafter, she came to know that her daughter has love affair with one Ayush @ Lucky and on 18.02.2024, her daughter was taken by one Ritushree; Lucky; and Subham to one hotel at Ganesguri and stayed the night there and Lucky has committed sexual intercourse with her daughter against her will and Ritushree has snatched away her mobile phone. And on 19.02.2024, at about 9 am, Ritushree took her daughter in her scooty to Fatasil Ambari and there they assaulted her daughter and injured her.

4. Mr. Bhattacharya, learned counsel for the accused submits that the accused was arrested on 22.02.2024, and since then she has been languishing in jail hazot for last 20 days. Mr. Bhattacharya further submits that no offence under Section 4 of the POCSO Act is made out against the present accused, however the Sections 323/342/506 of the IPC may be attracted in her case and these sections are bailable in nature. Mr. Bhattacharya also submits that the

accused is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor has produced the case diary before this Court and referring to the statement of the victim girl recorded under Section 164 of the Cr.P.C., fairly submits that no offence under Section 4 of the POCSO Act is made out against the present accused.

6. It is to be noted here that as per office note dated 11.03.2024, the notice was issued upon the respondent No. 2, but, she chooses not to appear before the Court.

7. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

8. It appears that the accused was arrested on 22.02.2024, and since then she has been languishing in jail hazot for last 20 days. Further, the materials collected so far in the case diary indicate that no offence under Section 4 of the POCSO Act is made out against the present accused.

9. In view above and also considering the period of detention and balancing the same with the nature and gravity of the offence, this Court is of the view that further custodial detention of the accused may not be warranted in the interest of investigation.

10. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Special**

Judge, POCSO, Kamrup (M) at Guwahati, the accused be enlarged on bail.

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

12. The case diary be returned.

Comparing Assistant

JUDGE