

GAHC010053552024



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

Case No. : Bail Appln./758/2024

MD. MOJIBUR RAHMAN
S/O MD. ABDUL MANNAN @ HANNAN ALI
R/O VILL- BALIMUKH
KARATIPAM, P.S. MAYONG,
DIST. MORIGAON, ASSAM

VERSUS

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

2:MUSSTT. SULEMA KHATUN
W/O AIZUL HAQUE
R/O VILL- JAMUHANDAL
P.S. HOJAI
DIST. HOJAI
ASSA

Advocate for the Petitioner : MR J C BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

31.05.2024

Heard learned counsel for the petitioner as well as the learned Additional Public

Prosecutor, Assam. Also heard Ms. B Choudhury, learned counsel for the informant.

This is an application filed under Section 439 Cr.P.C. praying for granting regular bail to the petitioner, Md. Mojibur Rahman, who was arrested on 30.11.2023 and presently facing trial in connection with Special (POCSO) case No. 24/2024 under Section 376 (i) of IPC read with Section 4 of the POCSO Act.

The learned Additional Public Prosecutor, Assam as well as learned counsel for the informant have seriously opposed in granting the bail to the petitioner.

Scanned copy of the case record as called for has been received along with case diary of the connected case. Perused the same. This court has also perused the statement of the victim recorded under Section 161 Cr.P.C. and 164 Cr.P.C.

It is seen from the record that the victim was allegedly about 17 years of age at the time of the commission of the offence. The petitioner was aged about 18 years 1 month at the time of commission of the offence. The statement of the victim girl suggest that the victim and the accused had love affair and they eloped and went Jagiroad and stayed at the residence of one relative of the petitioner and they had physical relation on that date i.e. on 26.11.2023. It is also stated that on 28.11.2023, the family members of the petitioner had taken them to the police station and her statement also suggest that she went with the petitioner out of her love. The petitioner was arrested on 30.11.2023 and he is in custody since then. The trial is at very initial stage and likely to take time to complete.

Considering the matter in entirety including the material so collected by the I/O, the age of the petitioner, this court is of the opinion that the petitioner has been able to make out a case for grant of bail during the trial. Accordingly, the present application is allowed.

It is directed that the applicant be released on bail on his furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety of the like amount to the satisfaction of the learned Special Judge (POCSO), Hojai with the

following conditions.

- (1) The petitioner shall not hamper with the investigation, or tamper with the evidence of the case,
- (2) The petitioner shall not repeat similar offence in future;
- (3) 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 them from disclosing such facts to the Court or to any police officer,
- (4) The petitioner shall appear before the I/O on each and every date as and when called for.

Bail application stands disposed of.

JUDGE

Comparing Assistant