

GAHC010061922024



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

Case No. : Bail Appln./900/2024

NABIR HUSSAIN @ NABIR ALI @ BABU
S/O GULAP HUSSAIN
R/O VILL- BAGHPORI
P.S. MANGALDAI
DIST. DARRANG, ASSAM

VERSUS

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

2:MAJIBAR RAHMAN
S/O LATE SUWAHAN ALI
R/O VILL- BAGHPORI
P.S - MANGALDAI
DIST - DARRANG
ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 29.05.2024

Heard Mr. M.Hoque, learned counsel for the petitioner as well as Mr. R.J.Baruah, learned Addl. P.P., Assam for the State respondent No.1. Also heard Mr. S.Das, learned counsel for respondent No.2.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Nabir Hussain @ Nabir Ali @ Babu** has prayed for grant of bail in connection with **Mangaldai PS Case No. 23/2024** under Sections 363 r/w Section 6 of the POCSO Act.

The learned counsel for petitioner submits that the petitioner has been in judicial custody for last 88 days since he was arrested on 03.03.2024. It is further submitted that the petitioner had love affairs with the victim girl and accordingly they had eloped. Considering length of detention, petitioner may be granted the privilege of bail.

The learned Addl.P.P. on the other hand has produced the case diary and submits that the victim had love affairs with the petitioner and out of their love affair, they have been eloped. However, court may consider the length of detention.

Learned counsel for respondent No.2 submits that from the forwarding report of the accused, it is mentioned that the victim was carrying 3-4 months of pregnancy and Section 6 of POCSO is attracted in the case. However, considering the length of detention, petitioner may be enlarged on bail.

Having heard learned counsel for the parties and perusal of the case diary, it is seen that though a case under Section 6 of POCSO Act is made out, however, from the statement of the victim girl under Section 164 CrPC, it reveals that there was love affairs between the parties for the last one year. During this period, in the absence of any family member, petitioner went to her house and there was physical relationship between them.

However, considering the above aspects of the matter and length of detention, this Court is of the considered opinion that further custodial interrogation of the petitioner in the interest of investigation is not warranted.

Accordingly, it is provided that the petitioner named above shall be released on furnishing bail bond of **Rs. 50,000/-** with two sureties of like amount to the satisfaction of the learned **Special Judge, Darrang, Mangaldai**, subject to the following conditions;-

- (i) The petitioner shall not leave the territorial jurisdiction of learned **Special Judge, Darrang, Mangaldai**, without prior written permission from him/her;
- (ii) That the petitioner shall cooperate with the Investigating Officer as and when required;
- (iii) 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 Police Officer or the Court.

Violation of any condition shall tantamount to cancellation of bail.

This disposes of the bail application.

Return the case diary.

JUDGE

Comparing Assistant