

GAHC010064242024



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

Case No. : Bail Appln./929/2024

BIMAN ROY
S/O LATE DAYAL CHANDRA ROY
R/O NEW GOALPARA
P.O. BALADMARI
P.S. GOALPARA,
DIST. GOALPARA, ASSAM
PIN-783121

VERSUS

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

2:PAHI NATH
D/O RAJU NATH
R/O VILL- BALITARA
P.S. GHOGRAPAR
DIST. NALBARI
ASSA

Advocate for the Petitioner : MR P P MEDHI, MR G BARGAYARY,MD. M. ALI

Advocate for the Respondent : PP, ASSAM, MR. P SAIKIA(LEGAL AID COUNSEL)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

21.08.2024

1. Heard learned counsel Dr. P. P. Medhi for the petitioner.
2. The petitioner has filed this application under Section 439 of the Cr.PC with prayer for bail in connection with Special (P) Case No. 203/2023 registered under Sections 204/342/354(B)/509 of the IPC read with Sections 12,14(1) of the POCSO Act and 66(E) of the IT Act.
3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State. Legal Aid counsel is not present today.
4. It is submitted that the petitioner is behind bars since 06.07.2023.
5. Notices which were issued to the respondent No. 2 is returned after service but the legal Aid Counsel is not present on two consecutive dates. The petitioner is undergoing trial in connection with Special (P) Case No. 203/2023 arising out of Nalbari P. S. Case No. 287/2023.

It is submitted that charges were framed under Sections 204/352/354(B)/509 of the IPC read with Section 12 of the POCSO Act.

6. The allegation against the petitioner is that the victim eloped with a boy on 21.06.2023, who was apprehended and confined at the Ghograpar P. S. The victim was only 17 years old at the time of the incident. The petitioner who was the S.I. of the Police station, outraged the modesty of the victim. He acted in a very aggressive manner and the victim was terrified by the petitioner's

demeanor. The petitioner's conduct was disclosed by the victim and the CWC was informed, who took up the matter against the petitioner and finally the FIR was registered which culminated into a Charge-sheet.

7. I have considered the submissions at the Bar.

8. It is submitted that out of 52 witnesses, 21 witnesses have been examined so far. The petitioner was arrested on 06.07.2023 and earlier his bail petition was rejected. It was observed while rejecting the bail petition by this Court that the case was at the nascent stage of trial. It is further submitted that now the trial has progressed considerably. Moreover, the petitioner's 87 year old mother is seriously ailing. The Annexure-F reveals the seriousness of the ailment of petitioner's mother. It is also submitted that at present, the petitioner's wife is also suffering from depression and she is under treatment and Annexure-G is the document relating to the petitioner's wife's mental ailment. The petitioner who is the sole bread winner of his family has been behind bars since 06.07.2023. He is also the father of 2 minor children and he has to take care of his wife, his ailing mother as well as 2 children. At present, the petitioner is terminated from his service and is unemployed.

9. On substantial change of circumstances, the petitioner has prayed for bail at this stage. The petitioner is willing to abide by any bail conditions if imposed upon him. The petitioner is a local resident and he is not a flight risk. The

petitioner has pledged to co-operate with the remaining part of the trial.

10. Considering the submissions at the Bar, I deem it proper to grant bail to the petitioner. I have also scrutinized the Trial Court Records. It appears that trial may not be adversely affected if the petitioner is admitted to bail at this stage.

11. The petitioner is hereby enlarged on bail of Rs. 50,000 (Rs. Fifty Thousand) with a local surety of like amount to the satisfaction of the learned Trial Court. The Trial Court may impose conditions which the Trial Court may deem fit and proper to secure the attendance of the petitioner. The petitioner is directed not to go anywhere near the vicinity of the victim and exercise threats to the witnesses and the victim.

12. On breach of any of the bail conditions, the Trial Court is at liberty to cancel the bail.

JUDGE

Comparing Assistant