

GAHC010072702024



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

Case No. : Bail Appln./1101/2024

ABDUL LATIF
S/O LATE ABDUL KADIR, VILL- PASCHIM DABLONG, P.S.-LANKA, DIST-
HOJAI (ASSAM)

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:MUSSTT. SAHERA KHATUN
W/O ABDUL SATTAR
VILL- PASCHIM DABLONG
WARD NO. 8
P.S.-LANKA
DIST- HOJAI (ASSAM)

Advocate for the Petitioner : MR. N J DUTTA
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 23.07.2024

Heard Mr. NJ Dutta, learned counsel for the petitioner and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent No. 1. Also heard Mr. KU Ahmed, learned counsel for the respondent No. 2/ informant.

The scanned copy of the LCR alongwith case diary is received and perused.

Heard both sides.

This is an application under Section 439 Cr.P.C., filed by the petitioner, namely **Abdul Latif**, praying for regular bail, who was arrested on 17.09.2023 in connection with Special POCSO Case No. 274/2023 arising out of Lanka P.S. Case No. 425/2023 under Section 376A&B IPC read with Section 4 of the POCSO Act.

It is submitted by Mr. NJ Dutta, learned counsel for the petitioner that the accused petitioner is behind the bar since 17.09.2023 i.e., as on today he has been languishing in jail hajat for last 310 days. He further submits that there are altogether 8 prosecution witnesses, out of them only 2 witnesses have been examined by the prosecution i.e. victim and the informant and there is no chance of hampering or tampering of the evidence of the prime witnesses. Therefore, he submits that considering the length of detention, the prayer for bail may be considered. However, the petitioner is ready and willing to contest the case and will regularly appear before the learned court below, if he is enlarged on regular bail in connection with this case.

In this context, Mr. B. Sarma, learned Additional Public Prosecutor has submitted that as the prime prosecution witnesses have already been examined and considering the period of detention and the facts and circumstances of the case, the bail petition may be considered.

On the other hand, Mr. K.U. Ahmed, learned counsel for the informant/ respondent No. 2 has submitted in this regard that PW 2 is the victim in this case and she has incriminated the present petitioner and she has corroborated her evidence with the statement recorded under Section 164 of the Cr. P.C. and the accused petitioner is a desperate person and there is every possibility of hampering and tempering of the evidence of this case. Therefore, he raised objection for granting bail to the accused/ petitioner at this stage.

After hearing the submission of learned counsel for both the parties and after perusing the case record including the case diary, it transpires that the victim and the informant have been examined by the prosecution and also only considering the period of detention, I find it to be a fit case to grant the prayer for bail.

Accordingly, it is directed that the petitioner named above, be released on bail on furnishing a bond of Rs. 30,000/- (Rupees thirty thousand) with 1 (one) suitable surety of like

amount to the satisfaction of the learned Special Judge, POCSO, Hojai in connection with the aforementioned case.

The direction for bail is further subject to the conditions that the accused-petitioner:

- 1) shall not leave the territorial jurisdiction of the learned Special Judge, POCSO, Hojai, without prior written permission from him/ her;
- 2) shall not hamper in the investigation of the case and tamper with the evidence of the case; and
- 3) 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/ her from disclosing such facts to the Court or to any police officer.

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

Return the case diary.

JUDGE

Comparing Assistant