

GAHC010073642024



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

Case No. : Bail Appln./1034/2024

JELIMON BEGUM
W/O MOHIBUL ISLAM
R/O H/NO. 21, MILAN NAGAR LALGANESH, P.O. FATASIL AMBARI
P.S. FATASIL AMBARI
DIST. KAMRUP (M), ASSAM
PIN-781025

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.04.2024

Heard Mr. A.H. Ahmed, learned counsel for the accused and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Jelimon Begum, who has been languishing in jail hazot since 12.02.2024, in connection with Dispur P.S. Case No.118/2024, under Section 365 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Ashok Shah on 11.02.2024. The essence of allegation made in the aforesaid FIR is that on that day, at about 12:30 p.m., one stranger had kidnapped his 18 months old daughter from the footpath, while she was playing there.

4. Mr. Ahmed, learned counsel for the accused, submits that the accused was arrested on 12.02.2024 and since then she has been languishing in jail hazot for more than 70 days and that the case has been registered under Section 365 IPC, where maximum punishment prescribed is 7 years and as such, the mandatory period of detention is 60 days and since no charge-sheet has been submitted till date, the accused is entitled to default bail. Mr. Ahmed further submits that this Court vide order dated 05.03.2024, in Bail Appln. No.566/2024, was pleased to grant the privilege of bail to one of the co-accused, namely, Munu Haque and the present accused is also stand in the same footing and therefore, it is contended to allow this petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary. However, Mr. Sarma has produced one letter of the Officer-in-Charge, Dispur Police Station, wherein it is stated that the I.O. is busy in law and order duty of the Lok Sabha Election-2024 and prays for granting another date for producing the case diary.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and it appears that Dispur P.S. Case No.118/2024 was registered under Section 365 IPC and the accused was arrested on 12.02.2024 and since then she has been languishing in jail hazot for last 70 days. Since the maximum punishment prescribed for the offence under Section 365 IPC is 7 years, the mandatory period of detention here in this case is 60 days and in the letter of the Officer-in-Charge, Dispur Police Station, dated 20.04.2024 produced by Mr. Sarma,

learned Additional P.P. before this Court, there is no indication about the charge-sheet being filed before the learned Court below, instead the Officer-in-Charge, Dispur Police Station has prayed for another date for producing the case diary before this Court.

7. Since no charge-sheet has been submitted till date, to the considered opinion of this Court, the accused is entitled to default bail. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused, namely, Jelimon Begum be enlarged on bail.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant