

GAHC010075732024



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

Case No. : Bail Appln./1072/2024

SADDAM HUSSAIN @ SADDAT HUSSAIN
S/O KASHEM ALI @ ABUL KASIM ALI,
RESIDENT OF KABAITARI, PS AND DIST BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.05.2024

Heard Mr. M.I. Hussain, learned counsel for the accused and also heard Mr. B. Sarma, learned standing counsel, appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Saddam Hussain @ Saddat Hussain, who has been

languishing in jail hazot since 23.03.2024, in connection with Bongaigaon P.S. Case No.103/2024 under Section 419/365 IPC, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Mukul Talukdar, Principal, Jawahar Navodaya Vidyalaya, Bongaigaon, on 18.03.2024. The essence of allegation made in the aforesaid FIR is that on 13.03.2024, one lady, namely, Sahirun Nessa has taken one minor girl, namely, Miss Shahin Parbin, aged 17 years, from Jawahar Navodaya Vidyalaya, Bongaigaon campus, by fraudulently impersonating herself as mother of the girl and wrongfully abducted with malafide intention and later on it has come to light that the lady accepted that the minor girl has come with her son Saddam Hussain and she does not know where her son and the minor girl is staying.

4. Mr. Hussain, learned counsel for the accused submits that the accused was arrested on 23.03.2024 and since then he has been languishing in jail hazot for last 40 days and that the victim girl in her statement under Section 164 Cr.P.C. has not implicated the accused with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court along with the medical report of the victim girl and submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Sarma has opposed the petition.

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 also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. It appears that at the relevant point of time, the age of the victim girl was below 18 years. The birth certificate of the victim girl, which the I.O. has collected during investigation, indicates that her date of birth is 26.05.2006 and as such, she has not completed 18 years on the date of occurrence, which took place on 13.03.2024. Further, it appears that the materials collected so far in the case diary indicates complicity of the accused with the offence alleged in the FIR and the I.O. is contemplating to add Section

376 IPC and Section 6 of the POCSO Act also.

8. Having regards to above and also having regards to the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused and accordingly, the bail application stand dismissed.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant