

GAHC010100052024



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

Case No. : Bail Appln./1472/2024

KISHORE SINHA
S/O KAMINI SINHA
R/O VILL- AOULALA,
P.S. RATABARI, DIST. KARIMGANJ
PRESENTLY RESIDENT OF VILL- RAJARGAON, P.O. AND P.S.
PATHARKANDI, PIN-788724
DIST. KARIMGANJ , ASSAM

VERSUS

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

2:XXX
D/O SHRI ADHAN SINHA
R/O VILL- RAGNA
DHARMANAGAR
P.S. DHARMANAGAR
PIN-799251
DIST. NORTH TRIPURA
TRIPURA

Advocate for the Petitioner : MR. N C DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

25.06.2024

- 1.** Heard Mr. N.C. Das, learned Senior Counsel, assisted by Ms. M. Devi, learned counsel for the petitioner and also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam, appearing for the State respondent, as well as Ms. A. Saikia, learned counsel for the respondent No. 2.
- 2.** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Shri Kishore Sinha, who has been detained behind the bars since 10.12.2023, in connection with Special POCSO Case No. 267/2023.
- 3.** The gist of accusation in this case is that on the basis of an FIR lodged by the victim on 09.12.2023, alleging that the present petitioner, who happens to be the uncle of the victim in relation had sexually assaulted the victim, when she was 17 years of age and thereafter, continued to blackmail her and subject her to physical abuse.
- 4.** On receipt of the said FIR, Patharkandi P.S. 361/2023 was registered and investigation was initiated. After completion of investigation charge-sheet was laid against the present petitioner under section 354(C)/376(2)(f) of the Indian Penal Code read with section 6 of the POCSO Act, 2012 as well as section 67 of the IT Act.
- 5.** Learned Senior Counsel for the petitioner has submitted that the allegation made against the above-named petitioner is not true.
- 6.** It is also submitted that after framing of the charge-sheet, the trial has

proceeded and the testimony of victim girl has already been recorded by the Trial Court and there are 11 listed witnesses in the charge-sheet and the trial will take considerable period of time.

7. Learned Senior Counsel for the petitioner has also submitted that the petitioner has already been detained behind the bars for more than 6 months and considering the fact that 10 of the listed witnesses are yet to be examined, the completion of trial would take much time and hence, he may be allowed to go on bail.

8. On the other hand, learned Additional Public Prosecutor Mr. R.R. Kaushik, has submitted that though the victim has already been examined in this case, however, the other listed witnesses are the relatives of the victim, who also happens to be the relatives of the present petitioner and there is every possibility that the petitioner may influence the witnesses and therefore, opposes the grant of bail to the present petitioner.

9. Learned counsel for the informant, who has also opposed the grant of bail on the ground that the victim was subjected to blackmailing for three years by the petitioner, who happens to be his uncle and there is every likelihood that if he is released on bail, he would threaten her and the trial may not be fair.

10. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record, including the scanned copy of the case record of Special POCSO Case No. 267/2023.

11. It appears from record that the victim, who is now 20 years of age has already been examined about two months back, i.e. on 01.04.2024 and since then no witness has been examined.

12. Considering the fact that there are large number of witnesses yet to be examined and considering the fact that the victim has already been examined

by the Trial Court, this Court is of considered opinion that if sufficient conditions are imposed on the petitioner while granting him bail and if he co-operates in the trial, his further custodial detention may not be necessary for fair completion of the trial in Special POCSO Case No. 267/2023.

13. In view of above, the above-named petitioner, is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Sessions Judge, Karimganj with conditions that:-

(i) The petitioner shall co-operate in his trial and appear before the Trial Court regularly as and when so directed by the Trial Court;

(ii) The petitioner shall appear once in a month before the Officer-In-Charge of Patharkandi P.S. 361/2023 till the witnesses, who are related to the victim are examined by the Trial Court;

(iii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any of the listed witnesses or any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Trial Court during the trial of the Special POCSO Case No. 267/2023.

(iv) It is also made clear that violation of any of the above condition would be a good ground for cancellation of bail granted to the above-named petitioner.

14. With the above observations, this bail application is hereby disposed of.

15. Send back the case diary.

JUDGE

Comparing Assistant