

GAHC010106042024



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

Case No. : Bail Appln./1529/2024

JATIN SARMAH
S/O LATE KHIRUD SARMAH
R/O VILL- NABAPUR
P.S. BISWANATH CHARIALI
DIST. BISWANATH, ASSAM

VERSUS

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

2:MOTI KUMAR NEWAR
CHAIRPERSON
CHILD WELFARE COMMITTEE OF BISWANATH
BISWANATH CHARIALI

DIST. BISWANATH
ASSAM
PIN- 78417

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 26.06.2024

1. Heard Mr. M. A. Choudhury, learned counsel for the petitioner. Also heard Mr. P. Sarmah, learned Additional Public Prosecutor for the State respondent.

2. This bail application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Jatin Sarmah, who is aged about 60 years and who has been detained behind the bars since 17.05.2024 in connection with Special POCSO Case No. 34/2024 under Section 354A of the Indian Penal Code, read with Section 8 of the POCSO Act, which is pending before the Court of learned Special Judge, Biswanath, Chariali. The connected P.S. case is Biswanath Chariali P.S. Case No. 109/2024.

3. Learned counsel for the petitioner has submitted that the petitioner has been detained behind the bars for the last 41 days and considering the fact that the investigation has already completed and charge sheet has been laid, his further custodial detention may not be necessary.

4. On the other hand, learned counsel representing the respondent No.2, has also submitted that he does not have any objection to, if bail is granted to the above-named petitioner.

5. Considering the fact that the investigation has completed and charge sheet has been laid.

=6. Learned Additional Public Prosecutor submits that though, incriminating materials are there against the present petitioner, however, he only submits that there are incriminating materials against the present petitioner.

7. I have considered the submissions made by learned counsel for both the sides.

8. Though after filing of the charge sheet, it is the Trial Court which is the best Court to consider as to whether bail should be granted or not. However, as in this case, the application for bail was filed on 27.05.2024 and since this case is pending before this Court for the last about one month and since, the investigation has already been completed and the further custodial detention of the present petitioner does not appear to be necessary, this Court is allowing the instant bail application.

9. In view of above reasons, the above-named petitioner is allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the learned Special Judge, Biswanath, Chariali with the following conditions:-

- i.** That the petitioner shall cooperate in the trial and shall appear before the Trial Court as and when so directed by the Trial Court without fail;
- ii.** That the petitioner shall not directly or indirectly make any inducement, threat or promise to any of the listed

witnesses or any other person/persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts during the trial.

- 10.** With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant