

GAHC010111842023



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

Case No. : Bail Appln./1851/2023

MD ABDUL MANNAN
S/O LATE ABDUL HASIM
PRESENT ADDRESS- NEAR S.T.H.G. CIVIL HOSPITAL MORIGAON, P.S.
MORIGAON, DIST. MORIGAON, ASSAM
PERMANENT ADDRESS- VILL- HAWRAGHAT DEBISTAN, P.S. MURAJHAR
DIST. HOJAI, ASSAM, PIN-782001

VERSUS

THE STATE OF ASSAM
REP BY THE PP, GOVT. OF ASSAM

2:MUSST. TAMANNA AHMED
D/O - LT TAHERUDDIN AHMED
R/O - B.B BORA ROAD
NAGAON
PS - NAGAON DISTRICT - NAGAON
ASSAM

Advocate for the Petitioner : MR S DEWRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 07.03.2024

Heard Mr. S. Dewri, learned counsel for the petitioner and Mr. BB Gogi,

learned Addl. Public Prosecutor for the State respondent.

2. By filling this bail application under Section 439 Cr.P.C., the petitioner has prayed for release on bail, who was arrested on 19.09.2022 in connection with POCSO Case No. 162/2022 arising out of Morigaon P.S. Case No. 333/2022 registered under Section 376(3) IPC read with Section 6 of the POCSO Act.

3. Scanned copy of the case record is received and perused.

4. Heard both sides.

5. It is submitted by Mr. Dewri, the learned counsel for the petitioner that false and concocted allegations are brought against the present petitioner and for which he is behind the bar for a reasonable period in connection with this case. From the cross-examination evidence of PW 1 i.e. the victim, it reveals that she along with her younger brother used to stay in the room next to the room of her parents and hence in presence of her mother, her father cannot do such things with her. From the statement it is sufficient to hold that false and concocted allegations brought against the present petitioner who is her step father. However, he submitted that her mother was also the accused and she got bail and there is no chance of absconding of the accused petitioner if he release on bail. Rather he appeared regularly on each and every date fixed by the Court.

6. In this context, Mr. Gogoi, the learned Addl. PP has submitted that there are sufficient incrimination in the segment of the victim recorded under Section 164 Cr.P.C as well as her evidence adduced before the court. Considering her

statement, prayer for bail may not be considered at this stage.

7. After hearing the learned counsel for the parties and on perusing the scanned copy of the records and the other relevant documents, it is seen out of four numbers of witnesses, two are already examined and the case is proceeded expeditiously. However, considering the statement made by the victim recorded under section 164 Code of Criminal Procedure, 1973, and her evidence adduced before the court, I find that there is probability of tempering with the evidence of other witnesses and probability of absconding of the present petitioner also cannot be denied at this stage.

8. In view of the above, I do not find it to be a fit case to allow the petitioner to go on regular bail and the bail prayer is rejected. However, the learned court below is hereby directed to complete the trial and dispose of the matter expeditiously, preferably within 2/ 3 months.

9. With the above observations and direction, the bail application stands dismissed.

JUDGE

Comparing Assistant