

GAHC010116962024



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

Case No. : Bail Appln./1682/2024

MINTU KALITA
S/O SRI KAMAL KALITA
RESIDENT OF VILLAGE ALEGJARI, PS CHHAYGAON, DIST KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP ASSAM

2:WSI(P) PRIYA DUTTA
D/O SRI KESHAB DUTTA

CHHAYGAON POLICE STATION
DIST KAMRUP ASSAM 78112

Advocate for the Petitioner : MR. N MAHAJAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

17.07.2024

Heard Mr. B. K. Mahajan, learned counsel appearing for the accused petitioner as well as Mr. D. P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

By filing this petition under Section 439 Cr.P.C., the accused-petitioner, namely,

Mintu Kalita, has prayed for grant of bail in connection with **Sessions (Special) POCSO Case No.90/2024 pending in the court of Special Judge, POCSO, Kamrup, Amingaon, arising out of Chhaygaon PS Case No. 112/2024 under Section 344/325/376(3) /370(A)/354(A)/506/34 IPC read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act read with Section 14 of the Child Labour (Prohibition & Regulation) Act read with Section 6/8 of POCSO Act.**

Learned counsel for the petitioner has argued that the accused petitioner has been languishing in judicial custody for more than 100 days since his arrest on 30.03.2024. Charge sheet has already been submitted as such there is no question of hampering in investigation and tempering with the evidence of the witnesses.

Learned counsel for the petitioner has pointed out that when the statement of the victim under Section 161 Cr.P.C. was recorded by the IO, there was no implication made by the victim before the IO regarding sexual assault towards her by the present petitioner. Subsequently, when her statement was recorded by the learned Magistrate under Section 164 Cr.P.C, the victim has implicated that she has been sexually abused by the present petitioner. According to learned counsel for the petitioner, the Medical Officer did not find any injury on the private parts of the victim. Under such backdrop, the learned counsel for the petitioner submits that considering the length of detention, the petitioner may be enlarged on bail.

On the other hand, Mr. D. P. Goswami, learned Additional Public Prosecutor has submitted that though charge sheet has been laid but charge has not yet been framed. Learned Additional Public Prosecutor has also admitted that the victim girl did not implicate the accused/petitioner before the IO regarding repeated penetrative sexual assault towards her by the petitioner.

I have perused the trial court record including the statement of the victim recorded

under Section 161 and 164 Cr.P.C. which are not identical to each other. It also appears that the accused petitioner has been detained in custody for more than 100 days and charge-sheet has already been submitted.

In view of the above, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary.

Accordingly, the petitioner, named above, shall be released on bail, on furnishing bail bond of **Rs.50,000/-** with **one suitable surety** of the like amount, to the satisfaction of learned **Special Judge (POCSO), Kamrup, Amingaon.**

The direction for bail is further subject to the following condition that the accused-petitioner:

(a) shall not leave the territorial jurisdiction of the learned trial court without prior written permission from him/her till disposal of the case.

11. The learned Special Judge (POCSO), Kamrup, Amingaon, is at liberty to impose any other condition(s) as it deems fit and proper at the time of releasing the accused/petitioner on bail to procure his attendance during trial.

12. The observation made above, shall confine for the purpose of disposal of this bail application only and shall not in any way affect the proceeding of the trial.

13. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant