

GAHC010117862024



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

**Case No. : Bail Appln./1701/2024**

SWAPAN KR. CHOUDHURY @ SWAPAN CHOUDHURY AKA SWAPNO  
S/O MONKANTA CHOUDHURY @ MAN KANTA CHOUDHURY  
R/O VILL- KACHUAR KHASH PT.I,  
P.S. DHUBRI,  
DIST. DHUBRI, ASSAM

VERSUS

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

2:PREMA NATH CHOUDHURY  
S/O LATE KHETI CHOUDHURY  
R/O VILL- KACHUAR KHASH  
PART-1  
P.S. DHUBRI

DIST. DHUBRI  
ASSAM  
PIN- 78332

**Advocate for the Petitioner** : MR. B. K. Mahajan

**Advocate for the Respondent** : Mr. R. J. Baruah Addl. PP, ASSAM

**BEFORE  
HONOURABLE MRS. JUSTICE MITALI THAKURIA  
ORDER**

**18.06.2024**

Heard Mr. B. K. Mahajan, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/petitioner, who has been languishing in jail *hazot* since 22.05.2024 in connection with Dhubri P.S. Case No.75/2024 under Sections 365/343/376/325/294/34 of IPC *read with* Sections 6 of the POCSO Act.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Mahajan, that the present petitioner was the driver of the vehicle and that apart there is no such allegation brought against the accused/petitioner. More so, he is behind the bar since 22.05.2024 and thus, the I.O got sufficient time to interrogate the present petitioner keeping him in the custody. He also submitted that as per the statement of the victim recorded under Section 161 of Cr. P.C., she did not utter anything against the accused/petitioner and the said victim had only brought the allegation only against the prime accused, Biswajit Choudhury, who sexually assaulted her. But, under Section 164 of Cr.P.C., she brought some allegations regarding the presence of present petitioner in the car, along with the prime accused. Further, he submits that the petitioner is ready to co-operate with I.O. for further investigation of the case if he is enlarged on bail.

On the other hand, Mr. Baruah, learned Additional Public Prosecutor has submitted that, it is a fact that the accused/petitioner is a driver of the vehicle, but, the victim has brought the allegation of kidnapping her along with other co-accused. He admitted the fact the there is no allegation of sexual assault against the accused/petitioner.

After hearing the submissions of learned counsels for both sides and also considering the fact that the accused/petitioner was only a driver and he is behind the bar since 22.05.2024, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, Dhubri, the accused/petitioner, namely, Swapan Kr. Choudhury @ Swapan Choudhury Aka Swapno, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Special Judge, Dhubri, without prior permission.

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

The Case Diary be sent back.

**JUDGE**

**Comparing Assistant**