

GAHC010119562024



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

Case No. : Bail Appln./1716/2024

JAYANTA DAS
S/O SAMIN RAJBONGSHI
R/O VILL- KARIPARA
P.S. GORESWAR
DIST. TAMULPUR, ASSAM

VERSUS

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

2:DIPANJALI DEKA
(INFORMANT)
W/O HITESH DEKA
R/O VILL- BHOGPUR (TAMULIKHAT)
P.S. GORESWAR
DIST. TAMULPUR
ASSA

Advocate for the Petitioner : MR A SHARMA,

Advocate for the Respondent : PP, ASSAM, MR. U CHOUDHURY (AS LEGAL-AID-COUNSEL FOR R-2)

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

ORDER

Date : 15.10.2024

Heard Mr. A. Sharma, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State respondent No. 1 and Mr. U. Choudhury, learned legal aid 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, Jayanta Das who has been detained behind the bars since 07.11.2023 (355 days) in connection with Special POCSO Case No. 18/2024 corresponding to Goreswar P.S. Case No. 166/2023, pending before the Court of learned Special Judge (POCSO), Baksa, Mushalpur.

3. The learned counsel for the petitioner has submitted that the petitioner is facing trial under Section 6 of the POCSO Act before the Court of learned Special Judge (POCSO), Baksa, Mushalpur and though the petitioner has been detained behind the bars for last 355 days, the trial is not progressing. It is also submitted by the learned counsel for the petitioner that the victim girl has already been examined and the petitioner is ready to cooperate in trial and hence, he has prayed for allowing the petitioner to go on bail.

4. On the other hand, the learned Additional Public Prosecutor as well as the learned legal aid counsel have submitted that the victim girl has implicated the present petitioner in the offence with which he has been charged with. It is also submitted that another material witness i.e. the mother of the victim girl who is the informant is yet to be examined and they have opposed the grant of bail on the ground that the prayer for bail may be considered only after examination of the informant of the case by the Trial Court.

5. I have considered these submissions made by learned counsel for both the sides and have perused the materials available on record including the scanned copy of the case record in Special POCSO Case No. 18/2024.

6. It appears that the offence alleged against the petitioner is serious in nature and the victim has implicated the petitioner in the alleged offence. It also appears that the informant of the case who is the mother of the victim is yet to be examined as witness. On the other hand, it is also important to note that the petitioner has been detained behind the bars for last 355 days and the trial is not fairly progressing.

7. In view of the above, this bail application is disposed of with a direction to the Trial Court to examine the informant of this case i.e. the mother of the victim girl as early as possible and thereafter, the Trial Court shall consider the bail of the petitioner if such a bail application is filed before the said Court. The Trial Court shall make an endeavour to examine the informant of this case i.e. the mother of the victim within a period of two months from the date of this order.

8. However, at this stage as one of the witnesses is yet to be examined, the prayer for bail is rejected.

9. Let a copy of this order be sent to the Trial Court.

JUDGE

Comparing Assistant