

GAHC010126342024



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

Case No. : Bail Appln./1886/2024

NIPU TOSSA AND ANR.
S/O SRI SUREN TOSSA
R/O VILL- GHILADHARI BASTI, P.S. SOOTEA, DIST. BISWANATH, ASSAM

2: SUSHIL PANTANTI
S/O LATE NAKUL PANTANTI
R/O VILL- GHILADHARI TE LINE NO. 2
P.S. SOOTEA
DIST. BISWANATH
ASSA

VERSUS

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

2:SITA PROJA
W/O SRI KRISHNA PROJA
R/O VILL- NAHARANI GAON (BALICHANG)
P.S. BISWANATH CHARIALI
DIST. BISWANATH, ASSAM

Advocate for the Petitioner : MR T CHHETRI, MR. A GANGULY

Advocate for the Respondent : PP, ASSAM, MS. K PHUKAN (LEGAL AID COUNSEL FOR R-2)

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

19.08.2024

Heard Mr A Ganguly, learned counsel for the petitioners, 1) Sri Nipu Tossa and 2) Sri Sushil Pantanti, who have filed this application under Section 439 of the Code of Criminal Procedure, 1973, with prayer for bail, as they are behind bars since 28.05.2024, in connection with Biswanath Chariali PS Case No. 112/2024, under Section 363/376 DA of the Indian Penal Code, 1860, read with Section 6 of the POCSO Act, 2012.

3. Heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of Assam. Also heard Ms K Phukan, learned counsel for the respondent No. 2.

4. The learned counsel for the informant has raised objection stating that the victim is from a poor family and at present, she is undergoing treatment. The petitioners do not deserve bail as they are booked under a serious offence.

5. I have considered the submissions at the Bar.

6. I have also scrutinized the Case Diary.

7. The allegation against the petitioners is that they are complicit in kidnapping the victim-‘X’. The petitioners then took the victim to an abandoned hut at Ghiladhari Tea Estate and the accused No. 1 had committed sexual assault on the victim.

8. It is submitted on behalf of the petitioners that they have not committed rape and at

the most, they can be booked under Section 363 IPC. It is also submitted that they were not involved in any gang rape and they have been highly prejudiced as they have been forwarded to custody in connection with a false case.

9. The merits of this case are not brought to the fore as the case is still under investigation. However, I have considered the length of detention.

10. Case Diary reveals that investigation has progressed to a considerable extent.

11. I have considered the submission on behalf of the petitioners that they are willing to cooperate with the remaining part of investigation and they are willing to abide by any stringent bail conditions, if imposed upon them. The petitioners are local residents and they are not flight risks.

12. Considering all aspects and in view of my foregoing discussions, petition is allowed. Both the petitioners are enlarged on bail of Rs. 50,000/- each, with one surety of the like amount to the satisfaction of the learned Special Judge, Biswanath at Biswanath Chariali, under the condition that-

- i) the petitioners shall cooperate with the remaining part of investigation,
- ii) the petitioners shall not exercise threats to the witnesses or try to influence them, and
- iii) the petitioners shall not leave the jurisdiction of the Court, without prior permission.

On breach of any of the bail conditions, this bail order shall automatically stand

cancelled.

11. With the above directions, this bail application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant