

GAHC010128112024



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

Case No. : Bail Appln./1889/2024

SHAHIDUL HOQUE
S/O - NURUL HOQUE, R/O - VILLAGE - KADAMGURI, P.S- HOWLY,
DISTRICT - BARPETA

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, STATE OF ASSAM

2:TAHER ALI (INFORMANT)
S/O ABDUL KALAM
R/O KADAMGURI
P.S. HOWLY
DIST. BARPETA
ASSAM
PIN-78130

Advocate for the Petitioner : MR K K KALITA, T M LAHKAR,MR. K UDDIN,MS. G DEKA

Advocate for the Respondent : PP, ASSAM, MR H AHMED(R-2),MR. A T SARKAR (R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.09.2024

1. Heard Ms. G. Deka, learned counsel for the petitioner namely, Shahidul Hoque.
2. The petitioner has filed this application under Section 439 of the Code of

Criminal Procedure, 1973 with prayer for bail as he is behind bars since 21.12.2023 in connection with Howly P.S. Case No. 210/2023 registered under Section 376 AB IPC R/W Section 4(2) of POCSO Act.

3. Heard Ms. N. Das, learned Additional Public Prosecutor, Assam for the respondent State and Mr. A.T. Sarkar, learned counsel for the respondent no 2.
4. The respondent no. 2 has raised serious objection by stating that the trial may be adversely affected if the petitioner is admitted to bail.
5. The learned Additional Public Prosecutor has also raised objection by stating that there are incriminating materials in the evidence against the petitioner.
6. The learned counsel for the petitioner has submitted that this case has been improved during the stage of evidence. It is submitted that the medico legal report marked as Annexure - G reveals that the victim has not alleged before the Doctor that petitioner had committed penetrative sexual assault but there is an allegation of sexual assault. The petitioner is only 19 years and a false case has been brought up against the petitioner by the victim's family as there is a land dispute between the parties.
7. The learned counsel for the respondent no. 2 has raised objection by stating that the submission of the learned counsel for the petitioner is not believable as father of the victim will never bring up a false case of sexual assault against his six year old minor daughter.
8. I have considered the submissions that the petitioner is behind bars for 9(nine) months and the by now, 4 witness have already been examined. The merits of this case are not brought to the fore. I have also considered the submission that the petitioner is willing to abide by any stringent bail conditions if, imposed upon him. It is submitted that the petitioner will appear regularly before the Trial

Court and never jump the bail.

9. Considering all aspects, I deem it proper to grant bail to the petitioner. The petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the Trial Court under the conditions that:

- (i) The petitioner shall not temper with the evidence.
- (ii) The petitioner shall appear before the Trial Court regularly.
- (iii) The petitioner shall not leave the jurisdiction of the Trial Court without written permission till completion of trial.

10. On breach of any of the bail conditions, bail order shall stand automatically cancelled.

11. In terms of the above observation, bail application stands disposed of.

JUDGE

Comparing Assistant