

GAHC010139732024



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

Case No. : Bail Appln./2058/2024

HAMIDUL MONDAL @ HAMIDUL MANDAL AND ANR
S/O MD. RAFIKUL MONDAL, R/O VILL- KAYETHPARA PT I, P.S.-
ABHAYAPURI, DIST- BONGAIGAON, ASSAM

2: RAFIQUK MONDAL @ RAFIKUL MANDAL
S/O SAMSUL MONDAL
R/O VILL- KAYETHPARA PT I
P.S.-ABHAYAPURI
DIST- BONGAIGAON
ASSA

VERSUS

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

2: AGAR ALI
S/O LATE BHANU MANDAL
R/O VILL- KAYETHPARA PT I
P.S.-ABHAYAPURI
DIST- BONGAIGAON
ASSA

Advocate for the Petitioner : MR SARFRAZ NAWAZ, SAMIM RAHMAN, MR S A BARBHUYAN, MS SURAYA RAHMAN, A W AMAN, MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM, MR. N MAHAJAN, (AMICUS CURIAE),

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 19.08.2024

Heard Mr. S.Das, learned counsel for the petitioners and Mr. R.J.Baruah, learned Addl.P.P. for the State respondent No.1. Also heard Mr. N.Mahajan, learned Amicus Curiae representing respondent No.2.

By filing this petition under Section 483 of the Bharatiya Nagarik Surakshya Sanhita, 2023 the accused-petitioners, namely, **1.Hamidul Mondal @ Hamidul Mandal** and **2. Rafikul Mondal** have prayed for grant of bail in connection with **Abhayapuri P.S. Case No.117/2024** under Sections 306/376 IPC r/w Section 6/17 of the POCSO Act.

It may be mentioned herein that vide order dated 09.08.2024, the petitioner No. 1, Hamidul Mondal @ Hamidul Mandal has already been granted bail by this court in the above case.

The learned counsel for the petitioners submits that petitioner No. 2 is the father of the petitioner No.1 and there was love affairs between petitioner No. 1 and the victim girl. But the petitioner No.2 did not accept their relationship. On 03.05.2024, petitioner No.2 went to the house of the informant, as per FIR and assaulted him and also threatened to kill him. The victim girl being the daughter of the informant, embarrassed by the above situation, committed suicide.

The learned counsel for the petitioner further submits that Section 306 of the IPC is not attracted against the petitioner No.2 as there is no instigation made

by him to commit suicide by the victim. It is also submitted that the petitioner No.2 has been languishing in judicial custody for last 53 days and as such, considering length of detention of the petitioner No.2, he may be enlarged on bail.

Learned Addl.P.P. has produced the case diary along with the post-mortem report of the victim. However, learned Addl.P.P. submits that length of detention may be considered.

Learned Amicus Curiae for the respondent No. 2 has made objection in granting bail to the petitioner No.2.

Having heard the learned counsel for the parties and on perusal of the case diary, it reveals that there is no allegation against the petitioner No. 2 to be involved in the offence under POCSO Act. However, considering the length of detention, his prayer for bail is allowed.

Accordingly, it is provided that the petitioner **2. Rafikul Mondal** shall be released on furnishing bail bond of **Rs. 50,000/-** with two sureties of like amount to the satisfaction of the learned **Special Judge (POCSO Act), North Salmara, Abhayapuri** subject to the following conditions;-

- (i) The **petitioner No.2** shall not leave the territorial jurisdiction of learned **Special Judge (POCSO Act), North Salmara, Abhayapuri** without prior written permission from him/her;
- (ii) That the petitioner No.2 shall cooperate with the Investigating Officer as and when required;
- (iii) That the petitioner No.2 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 Police Officer or the Court.

Violation of any condition shall tantamount to cancellation of bail of the petitioner No.2.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant