

GAHC010142952024



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

Case No. : Bail Appln./2103/2024

SADDAM ALI
S/O SAHAR ALI, VILL- BHELENGIMARI, P.S.-BHANGNAMARI, DIST-
NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR R ISLAM, MR S K CHHETRY

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

01.08.2024

Heard Mr N Uddin, learned counsel for the petitioner, Saddam Ali, who has filed this application under Section 483 of the BNSS, 2023, with prayer for bail as he is behind bars since 17.05.2024, in connection with Hajo PS Case No. 132/2024, under Sections 365/376(D) of the Indian Penal Code, 1860.

2. Also heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.

3. The learned Additional Public Prosecutor has raised objection stating that there are

incriminating materials in the Case Diary against the petitioner. The petitioner is booked under a serious offence.

4. The learned counsel for the petitioner has submitted that the petitioner is not named in the FIR. The FIR was lodged after the recovery of the victim and there is no allegations of sexual assault against the petitioner in the FIR, but the victim unfortunately has falsely incriminated the petitioner of the offence, which has not been alleged in the FIR, which reveals that FIR is contradicted.

5. It is further submitted that the irony is that the victim was found missing on 16.04.2024, whereas the FIR was lodged on 18.04.2024. It is further submitted that the petitioner has filed the subsequent application on the ground that the petitioner is behind bars for more than 76 days.

6. I have considered the submissions at the Bar with circumspection. I have also scrutinized the Case Diary.

7. Indeed there are incriminating materials in the Case Diary against the petitioner. The investigation has, however, progressed to a considerable extent. Statements of several witnesses have been recorded.

8. I have considered the submission on behalf of the petitioner that he is willing to cooperate with the remaining part of investigation.

9. It appears that investigation may not be adversely affected if the petitioner is admitted to bail.

10. Considering all aspects and in view of the foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs 50,000/- (Rupees Fifty thousand), with one suitable surety of the like amount to the satisfaction of the learned JMFC, Hajo under the conditions that:

- (i) the petitioner shall cooperate with the remaining part of investigation,
- (ii) the petitioner shall not exercise threats to the witnesses or go anywhere near the vicinity of the victim,
- (iii) the petitioner shall not leave the jurisdiction of the Court without prior permission, and
- (iv) the petitioner shall refrain from such activities with which he is alleged.

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

11. Bail Application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant