

GAHC010146922024



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

Case No. : Bail Appln./2160/2024

SHANKAR MANDAL
S/O AKALI MANDAL, R/O BALIMUKH BERADIYA, P.S.-MAYONG, DIST-
MORIGAON (ASSAM)

VERSUS

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

2:HARENDRA BISWAS
S/O LATE JUGESH BISWAS
R/O BAHAKAJARI
P.S.-MAYONG
DIST- MORIGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR H R A CHOUDHURY, MD. ANARUL ISLAM,MR. I U
CHOWDHURY

Advocate for the Respondent : PP, ASSAM, MR. R ISLAM (R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 02-09-2024

Heard Mr. H.R.A. Choudhury, learned Senior Counsel assisted by Mr. I.U.
Chowdhury, learned counsel for the petitioner Shankar Mandal, who has filed

this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as he is behind bars since 19.11.2023 in connection with POCSO Case No. 1/2024 arising out of Mayong Police Station Case No. 137/2023 under Section 376DA of the Indian Penal Code, 1860 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 pending before the learned Special Judge (POCSO), Morigaon.

2. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State and Mr. R. Islam, learned counsel for the informant/respondent No. 2.

3. The allegation against the petitioner is that he along with the co-accused committed gang rape on the victim who is the daughter of the informant.

4. It is submitted that there is a land dispute against both the parties and a false case has been brought up against the petitioner. It is also submitted that the medico-legal report of the victim reveals that although the allegation is relating to gang rape but no injuries were detected when the victim was forwarded immediately on the next day for treatment. Moreover, the medico-legal report reveals that the age of the victim is not 12/13 years but the age of the victim is above 16 years and below 19 years.

5. It is submitted that thus it is clear from the medico-legal report that the victim and her father has brought up a false case against the petitioner and the co-accused.

6. I have considered the submissions at the bar with circumspection. The evidence of the victim and the informant has already been recorded. It appears

that trial may not be adversely affected if the petitioner is admitted to bail. The merits of this case are not brought to the fore but I am of the opinion that bail can be granted to the petitioner.

7. Considering all aspects, petition is allowed. The petitioner is 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 learned Special Judge (POCSO), Morigaon. The trial Court may impose any bail conditions which the Court deems fit and proper to secure the attendance of the petitioner during trial.

8. In terms of the above observation, this Bail Application stands disposed of.

JUDGE

Comparing Assistant