

GAHC010147062024



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

Case No. : Bail Appln./2148/2024

MOFIDUL ISLAM @ MOFIDUL ALI
S/O- ABDUL MAZID @ MAZID ALI, PERMANENT RESIDENT OF VILLAGE
NO. 2 GARUGAON, P.O. GARUGAON, P.S. AND DIST. BONGAIGAON,
ASSAM, PIN- 783383.

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:MALEK UDDIN
S/O-LATE HAFEZ UDDIN
PERMANENT R/O VILL- NO.2 GARUGAON
NEARBY NGO BAZAR NO.3
NACHANKURI
P.O-GARUGAON
P.S-BONGAIGAON
STATE- ASSAM
PIN-78338

Advocate for the Petitioner : MR. J ABBAS, MR. D GOGOI

Advocate for the Respondent : PP, ASSAM, MR. A PHUKAN, AMICUS CURIAE

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 03.10.2024

Heard Mr. D. Gogoi, learned counsel for the petitioner. Also heard Mr. K.K.

Parasar, learned Additional Public Prosecutor appearing for the State and Mr. A. Phukan, learned *Amicus Curiae* for the respondent No. 2.

2. By this application filed under section 483 of the Bharatiya Nagarik Suraskha Sanhita, 2023, the accused petitioner namely, **Mofidul Islam @ Mofidul Ali**, has prayed for bail in connection with **Spl.P. Case No. 75(Bgn)/2024 (arising out of Bongaigaon P.S. Case No. 210/2024)** under Section 363/376(3) of IPC r/w Section 4 of POCSO Act.

3. The learned counsel for the petitioner submits that the petitioner has been detained in custody for more than hundred days since his arrest on 13.06.2024. It is also submitted that the victim girl has been already examined by the learned trial court. There is no allegation made by the victim against the petitioner in her evidence which comes under the purview of the POCSO Act. Under such backdrop as well as considering the length of detention, the petitioner may be enlarged on bail.

4. On the other hand, Mr. Parasar, learned Additional Public Prosecutor for the State and the learned *Amicus Curiae* for the respondent No. 2 have submitted that as the victim girl has already been examined, length of detention of the accused may be considered.

5. I have considered the submissions made by the parties. I have also perused scanned copy of trial court record.

6. In view of the submissions of learned counsel for the parties and considering the fact in its entirety, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Spl.P. Case No. 75(Bgn)/2024 (arising out of Bongaigaon P.S. Case No. 210/2024)** under Section 363/376(3) of IPC r/w Section 4 of POCSO Act, on furnishing bail bond of **Rs.50,000/- with two suitable sureties** of the like amount to the satisfaction of learned Special Judge, Bongaigaon, Assam.

8. The direction for bail is further subject to the conditions that the accused-petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, Bongaigaon, Assam, without prior written permission from him/her;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any of the remaining witnesses to be examined in the case;

(c) shall appear before the trial court on each and every date fixed for hearing without fail.

9. Breach of any of the above conditions, shall tantamount to cancellation of bail.

10. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant