

GAHC010153412024



2024:GAU-AS:12841

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

Case No. : Bail Appln./2276/2024

ABDUL MANNAN SARKAR
S/O ROBIAL ALOM, R/O VILL- KUMGURI, P.S.-GOSSAIGAON, DIST-
KOKRAJHAR, BTR, ASSAM

VERSUS

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

2:RASHID MANDAL
S/O LATE PACHAILA MANDAL
R/O VILL- KUMGURI
P.O.-TULSHIBIL
P.S.-GOSSAIGAON
DIST- KOKRAJHAR
BTR
ASSAM
PIN-78333

Advocate for the Petitioner : MD. S ALOM, MR. M S ALAM

Advocate for the Respondent : PP, ASSAM, MS. K PHUKAN (LEGAL AID COUNSEL FOR R-2)

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

17.12.2024

Heard Md. S. Alom, learned counsel of the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor representing the State respondent No.1 and Ms. K. Phukan, learned Legal Aid Counsel for the respondent No.2.

This application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for the release of the petitioner on regular bail in connection with Special POCSO Case No. 106/2024 arising out of Gossaigaon P.S. Case No. 48/2024, registered under Section 376 (AB) of the IPC *read with* Section 6 of the POCSO Act, 2012, which is pending before the Court of the learned Special Judge, Kokrajhar, Assam.

The scanned copy of the case record, as called for, has already been received, and I have perused the same.

Md. Alom, learned counsel for the petitioner, has submitted that the petitioner has been behind bar for 281 days, and the case has already been charge-sheeted. Out of 11 witnesses, 7 have already been examined by the prosecution, including the informant and the victim. At present, only official witnesses are left to be examined. He further submits that the petitioner is only 19 years of age, and being a permanent resident of the local area, there is no chance of his absconding. Moreover, since 27.09.2024, no witnesses have turned up, and the case is at the stage of evidence, with 4 witnesses yet to be examined. Thus, he prays for the petitioner's release on bail, considering his age and the length of his detention. He further states that the petitioner is ready to

contest the case appearing before the learned Trial Court on each date fixed.

In this context, Mr. Baruah, learned Additional Public Prosecutor, has submitted that the witnesses who have already been examined have implicated the accused/petitioner, especially the minor victim, who was only 4 years of age at the time of the alleged incident. Accordingly, he raised an objection and submits that this is not a fit case to allow the accused/petitioner to be release on bail.

In this regard, Ms. Phukan, learned Legal Aid Counsel, has submitted that considering the nature of the offence alleged against the accused/petitioner, the evidence of the minor victim, and the medical report, she vehemently raises an objection and submits that bail should not be granted to the accused/petitioner at this stage.

Considering the submissions of the learned counsels for both sides and also considering the materials available in the case record, as well as the nature of the offence, the evidence of the minor victim, and the medical report, I find that further custodial detention may be necessary as probability of absconding and tampering of the evidence also cannot be denied. Accordingly, I am of the view that this is not a fit case in which the privilege of bail can be granted to the accused/petitioner at this stage, and the application is therefore rejected.

In terms of above, this Bail Application stands disposed of.

JUDGE

Comparing Assistant