

GAHC010153782023



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

Case No. : Bail Appln./2465/2023

MD MANOWAR HUSSAIN
S/O NIZAM UDDIN
R/O VILL- ROWARPAR, P.S. MURAJHAR IN THE DISTRICT OF NAGAON,
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE LEARNED PP, ASSAM

2:AZIZUR RAHMAN
S/O MOINUL HOQUE
R/O VILL-ROWARPAR
P.S. MURAJHAR IN THE DISTRICT OF NAGAON
ASSA

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 30-01-2024

Heard Mr. S. Nawaz, learned counsel for the petitioner Md. Manowar Hussain.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure with prayer for bail as he is behind bars since 20.02.2023 in connection with Special POCSO Case No 37/2023 arising out of Murajhar Police Station Case No.76/2023 registered under Section 376-AB/323 of Indian Penal Code.

3. Heard Mr. R.R. Kaushik, learned Additional Public Prosecutor.

4. It is submitted on behalf of the petitioner that the petitioner has filed this bail application in the month of July and this application has been kept pending as the evidence of victim was not recorded. However, till date, evidence of not a single witness has been recorded. It is submitted that the personal liberty of the petitioner has been curtailed.

5. The learned Additional Public Prosecutor has raised objection stating that if the petitioner is released on bail, the witnesses may be influenced, as the petitioner is related to the victim and the witnesses.

6. I have considered the submissions at the bar with circumspection.

7. The petitioner has been behind bars since 20.02.2023. Not a single witness has been examined. I have considered the submissions on behalf of the petitioner that he will not go near the vicinity of the victim. The petitioner has pledged to cooperate with the trial. It is submitted that the petitioner being a local resident is not a flight risk.

8. I have also perused scanned copies of the LCR. Considering the submissions, I deem it proper to grant bail to the petitioner. The petitioner is enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with suitable surety of like amount to the satisfaction of the learned Special Judge POCSO, Hojai under the conditions that:

- (i) The petitioner shall not go near the vicinity of the petitioner.
 - (ii) The petitioner shall not exercise threats to the witnesses and tamper with the evidence.
 - (iii) The petitioner shall not leave the jurisdiction of the trial Court without prior permission till completion of trial.
9. On breach of any of the bail conditions, bail order shall stand cancelled.

In the above terms this Bail Application stands disposed of.

JUDGE

Comparing Assistant