

GAHC010154832024



2024:GAU-AS:11326

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

Case No. : Bail Appln./2380/2024

MD. NURUL HUDA
S/O LATE SURHAD ALI, VILL- SIMALI PATHER, P.S.-KAMPUR, DIST-
NAGAON, ASSAM

VERSUS

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

2:NAZUMA KHATUN
W/O NURUL HUDA
R/O VILL- SIMLAI PATHER
P.S.-KAMPUR
DIST-NAGAON
ASSA

Advocate for the Petitioner : MR A DEKA,

Advocate for the Respondent : PP, ASSAM, MS. M K BROWN, (AMICUS CURIAE, R2)

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

20.11.2024

Heard Mr. S Das, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State. Also heard Ms. M K Brown, learned Amicus Curiae for the informant/respondent No.2.

2) By this application filed under Section 483 BNSS, 2023 the petitioner, namely, **Md. Nurul Huda**, son of Late Surhad Ali, resident Village-Simlai Pather, P.S.-Kampur, District-Nagaon, has prayed for his bail in **Special POCSO Case No.126/2023** arising out of Nagaon Police Station Case No.36/2023, corresponding to GR No.404/2023, registered under Section 376 of the I.P.C. read with Section 6 of the POCSO Act, 2012, in which, he was arrested on 13.03.2023 and is in custody since then.

3) It is contended by Mr. Das on behalf of the petitioner that since the evidence of the prosecution witnesses have already been recorded and also considering the period of detention of the petitioner, namely, Md. Nurul Huda, since 13.03.2023, the Court should consider the bail of the petitioner, named above, so that he can defend his case, which is pending before the Court of learned Special Judge (POCSO), Nagaon.

4) Mr. Parashar, learned Additional Public Prosecutor, Assam submitted that Section 313 Cr.P.C. statement of the accused has already been recorded and the matter is fixed on 29.11.2024 for recording of evidence of the defence witnesses and as such, the petitioner, namely, Md. Nurul Huda, should not be considered for his bail in said Special POCSO Case No.126/2023.

5) Ms. Brown, learned Amicus Curiae for the informant/ respondent No.2, submitted that considering the proximity of the petitioner and the victim, i.e., the father and his own daughter respectively, if the petitioner is released on bail at this stage, there is every possibility for the petitioner to harass the victim again.

6) Perused the case record that was called for by the Court vide order dated 12.08.2024.

7) From perusal of the case record, it is seen that the Section 164 Cr.P.C. statement of the minor victim girl recorded on 17.02.2023 before the learned Judicial Magistrate First Class, Nagaon is consistent with her evidence recorded before the learned Trial Court on 24.08.2023.

8) It is also seen from the case record that the informant also adduced similar

evidence as that of the victim before the learned Trial Court.

9) Though Mr. Das, learned counsel for the petitioner, placed the medical report of the victim girl for the consideration of bail of the petitioner, but from the record it is seen that the victim is the own daughter of the petitioner and the informant is the wife of the petitioner.

10) For a daughter, her father is always precious. Therefore, unless a severe crime is committed on a daughter by her father, a daughter would never implicate her father.

11) In the case in hand, it is seen that the minor victim girl implicated the petitioner, i.e., her own father, of committing the crime.

12) Considering the materials in the case record and the evidence adduced by the parties and also considering the Section 164 Cr.P.C. statement of the victim girl, this Court is of the view that it is not a fit case to grant bail to the petitioner, namely, **Md. Nurul Huda**, considering his detention in custody since 13.03.2023, in said Special POCSO Case No.126/2023,.

13) For the reasons stated above, this bail application of the petitioner, named above, in said Special POCSO Case No.126/2023 stands rejected.

14) The Gauhati High Court Legal Services Committee, on raising a bill by her, shall pay the remuneration to Ms. Manisha Karen Brown, learned Amicus Curiae who appeared for the informant/respondent No.2 as being appointed by the Court and also assisted the Court in adjudicating this matter.

JUDGE

Comparing Assistant