

GAHC010157582024



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

Case No. : Crl.Pet./935/2024

RAHUL DAS
S/O LATE NARAYAN CHANDRA DAS
R/O QUARTER NO. 6N-8B, RAILWAY COLONY,
P.S. KARIMGANJ
DIST. KARIMGANJ, ASSAM

VERSUS

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

2:BRAJENDRA DAS
S/O NITYANANDA DAS
R/O SARISHA MEDOL PART-I
P.O. SILCHAR ROAD

P.S. KARIMGANJ
DIST. KARIMGANJ
ASSA

Advocate for the Petitioner : MR. A AHMED, MR A AHMED,U U KHAN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 08.08.2024

Heard Mr. A. Ahmed, the learned counsel appearing for the petitioner as well as Mr. B. Sarma, the learned counsel appearing for the State of Assam.

2. This is an application under section 528 of BNSS, 2023 read with Article 227 of the Constitution of India challenging the impugned order dated 28.12.2023 passed by the learned Special Judge, Karimganj in Sessions Special (POCSO) Case No. 201/2023.

3. The petitioner alongwith some other persons are facing trial before the court below. The trial court granted bail to the present petitioner on a condition that he would have to furnish two sureties and one of the sureties must be a Government servant.

4. Thereafter, on two occasions, the petitioner furnished sureties as directed by the court below. But on both those occasions, the trial court did not find the Government servant to be satisfactory.

5. I have considered the submissions made by the learned counsels of both sides.

6. It is a settled position of law that if the bail bonds are not furnished within one month from the date of grant of bail, the concerned court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation. It is also a settled position of law that one of the reasons, which delay the release of the accused/convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the

condition of local surety (**2023 SCC Online SC 483**).

7. The bail order was passed by the learned trial court more than 6 (six) months ago. Therefore, the learned trial court should have considered the modification of the order. The trial court did not do so.

8. Therefore, the impugned order is set aside.

9. The learned trial court is directed not to insist upon furnishing a Government servant. The trial court shall release the accused/petitioner on local sureties only. The impugned bail order stands modified accordingly.

10. With the aforesaid directions, the criminal petition stands disposed of.

JUDGE

Comparing Assistant