

GAHC010158212024



2024:GAU-AS:11675

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

Case No. : Bail Appln./2356/2024

PABON BARUAH
S/O SRI MRIDUL BARUAH, R/O NARAYANPUR GAON, P.O.-OUGURI
DANGDHARA, P.S.-DHAKUAKHANA, DIST- LAKHIMPUR, ASSAM

VERSUS

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

2:PRADIP SONOWAL
S/O LT. PUHEN SONOWAL
R/O KEKURI KACHARI GAON
P.O.-KEKURI
P.S.-DHAKUAKHANA
DIST- LAKHIMPUR
ASSA

Advocate for the Petitioner : MR. P J SAIKIA, MS D DUTTA

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

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 26.11.2024

Heard Mr. P. J. Saikia, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent No. 1 and Ms. M. K. Brown, learned Amicus Curiae for the respondent No. 2/informant.

This is an application under Section 439 of the Code of Criminal Procedure praying for grant of bail to the accused/ petitioner, who has been arrested in connection with Dhakuakhana P.S. Case No. 31/2024, under Section 498(A)/ 304(B) of the Indian Penal Code *read with* Section 6 of the POCSO Act *read with* Section 9 of PCM Act and corresponding to Special POCSO Case No. 66/2024.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Saikia, learned counsel for the petitioner, that the present accused/petitioner is innocent. However, it is a fact that he got married with the victim after she eloped with him. But, prior to her marriage, the victim also eloped with another person, namely, one Akbar Ali, and on the basis of which, another F.I.R. was lodged by the father of the victim and the case is still pending for investigation. Further he submitted that as the victim had the love affairs with one Akbar Ali, she used to have conversation with the said Akbar Ali

and subsequently she committed suicide. But the present accused/ petitioner is innocent and he is no way involved in the alleged offence. More so, one Prosecution Witness has already been examined who did not implicate the present accused/petitioner in the present case. Mr. Saikia further submitted that the accused/petitioner will appear before the learned Court below on each and every date of hearing if he is allowed to go on bail.

Mr. Baruah, learned Additional Public Prosecutor, submitted in this regard that from the statement made by the witnesses under Section 164 Cr.P.C., it is seen that the victim was subjected to mental and physical torture before her death and the P.M. Report also speaks about the same injuries over her body at the time of death. He further submitted that till the examination of the material witnesses, the petitioner may not be enlarged on bail as there is every probability of hampering or tampering with the witnesses.

Ms. Brown, learned Amicus Curiae for the respondent No. 2/informant, also submitted in this regard that the victim was found dead in the room of the petitioner in a suspicious condition and the P.M. Report and other circumstances also reveals that she was subjected to physical torture before her death. There are some material witnesses who are yet to be examined by the Court and till the examination of those material witnesses, the present accused/petitioner may not be enlarged on bail as there is every probability of hampering or tampering of other material witnesses. Accordingly, she also raised vehement objection in granting bail to the present accused/petitioner.

Considering the entire submissions made by the learned counsels for both

sides, materials available in the Case Diary and also considering the statement by the witnesses under Section 164 Cr.P.C., I find that till the examination of the other material witnesses, it will not be appropriate to enlarge the accused/petitioner on bail at this stage and accordingly the present bail application stands rejected.

The bail application stands disposed of in terms above.

JUDGE

Comparing Assistant