

GAHC010167692024



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

Case No. : Bail Appln./2557/2024

HABIBULLAH HOQUE @ HABIBILLAH HAQUE
S/O FUL MOHD. SEKH @ FUL MAHAMMAD, VILL- BINNACHARA PART-III,
P.S.-GOLAKGANJ, DIST- DHUBRI, ASSAM, PIN-783334

VERSUS

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

2:KUDDUSH ALI (INFORMANT)
S/O LATE HAMID ALI
R/O VILL- BINNACHARA PART III
P.S.-GOLAKGANJ
DIST- DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. A K AHMED, MD A ISLAM,MR A AHMED,MRS J DUTTA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

04/11/2024

Heard Mr. A K Ahmed, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State respondent.

2. This application under Section 483 of BNSS, has been filed by the petitioner, namely, **Habibullah Hoque @ Habibillah Haque**, son of Ful Mohd. Sekh @ Ful Mahammad, resident of Village-Binnachara, Part-III, P.S. Golakganj, District-Dhubri, seeking bail in **Golakganj P.S. Case No. 166/2024** registered under Sections 107/3(5) BNS, read with Section 6 of the POCSO Act, corresponding to G.R. No. 826/2024, wherein he was arrested on 05.08.2024 and is in custody since then.

3. As per the FIR of the case dated 20.07.2024, since a year back, the accused petitioner and his father insisted for marriage of the daughter of the informant to the accused petitioner and it was not considered as his daughter was minor. In the meanwhile, the accused petitioner established an affair with his minor daughter promising her to marry and on many occasions forcefully committed physical intercourse with her in spite of her objection by inducing her, due to which his minor daughter became pregnant and as such, committed suicide on 16.07.2024.

4. Perused the case diary, the postmortem report of the deceased as well as the FSL report.

5. It is seen that the investigation of the case has already been completed but due to non-availability of the DNA report, charge-sheet in said Golakganj P.S. Case No. 166/2024 could not be filed in time. In the meanwhile, the accused petitioner has already completed the statutory/mandatory period of 91 days.

6. Considering the above and since the petitioner has already completed the statutory/mandatory period of his detention in custody since 05.08.2024, the Court found that he is entitled for default bail in said Golakganj P.S. Case No. 166/2024.

7. Accordingly, the petitioner, namely, **Habibullah Hoque @ Habibillah Haque**, is granted default bail in said **Golakganj P.S. Case No. 166/2024** registered under Sections 107/3(5) BNS, read with Section 6 of the POCSO Act, corresponding to G.R. No. 826/2024, on furnishing a bail bond

of Rs.50,000/- with 2 (two) local sureties of the like amount, one of which shall be a Government Employee either Central or State Government, to the satisfaction of the learned Special Judge (POCSO), Dhubri, on conditions that the petitioner — **(i)** shall appear before the Investigating Officer of said Golakganj P.S. Case No. 166/2024 as and when he is required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of the learned Special Judge (POCSO), Dhubri, without obtaining prior written permission from the said authority; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case; **(iv)** shall not, directly or indirectly, make any inducement, threat or promise to the informant, his family members or to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; **(v)** shall not involve himself in any criminal activities and **(vi)** shall surrender his passport, if any, before the learned Special Judge (POCSO), Dhubri on or before 14.11.2024, obtaining necessary acknowledgment in that regard, failing which, the bail granted to him in the aforesaid Golakganj P.S. Case No. 166/2024 shall stand automatically vacated.

8. This bail application accordingly stands disposed of with the above directions.

9. Return the case diary.

JUDGE

Comparing Assistant