

GAHC010172422024



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

Case No. : Bail Appln./2536/2024

BIPUL BARUAH
S/O MANTU BARUAH
R/O VILL/TOWN- PALAHGURI
P.S. MIKIRBHETA
DIST. MORIGAON, ASSAM

VERSUS

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

2:SMTI. MUMU BORA (INFORMANT)
W/O SRI PRABIN BORA
R/O VILL /TOWN SUNARIGURI
P.S. MIKIRBHETA
DIST. MORIGAON
ASSA

Advocate for the Petitioner : MS. S K NARGIS, MR F H LASKAR (2),MS N SULTANA,MS S BEGUM

Advocate for the Respondent : PP, ASSAM, MRS. K BARPUZARI (R-2)

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 04.10.2024

1. Heard Mr. S. K. Nargis, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned Additional Public prosecutor as well as Ms. K. Borpujari, learned counsel appearing for the victim girl.
2. This application under Section 483 of BNSS, 2023 has been filed by the petitioner BipulBaruah who has been detained behind the bars since 04.12.2022 (for 1 year 10 months) in connection with POSCO Case No. 10/2024 under Section 366/376(3) of the Indian Penal Code read with Section 4(2) of the POCSO Act.
3. The gist of Acquisition in this case is that on 04.12.2023, the mother of the victim girl lodged an FIR before the Officer-in-Charge of Mikirbhata Police Station, inter alia, alleging that a victim daughter was rape by the present petitioner against her will. On receipt of the said FIR Mikirbhata P.S. Case No.244/2023 was registered and investigation was initiated.
4. After completion of the investigation charge-sheet was laid against the present petitioner under the aforementioned sections of law.
5. The petitioner was arrested on 04.12.2023 and since then he has been detained behind the bars. The learned counsel for the petitioner has submitted that though the charges were framed on 24.01.2024 against the petitioner, however the testimony of victim was not fully recorded.
6. It is also submitted that the victim girl herself has not appeared before the Trial Court on last many occasions for adducing her evidence as her testimony has been recorded in part only.

7. The learned counsel for the petitioner has submitted that considering the long period of detention as well as considering the fact that the victim girl herself is not objecting to the grant of the bail to the petitioner, the petitioner may be allowed to go on bail.

8. The learned counsel also submits that if the petitioner is allowed to go on bail, he is ready to cooperate in trial and any condition may be imposed on him while granting bail.

9. Ms. K. Borpujari, learned counsel representing the victim girl has submitted that the victim girl has no objection if the petitioner is allowed to go on bail.

10. On the other hand, Mr.K. Baishya, learned Additional Public Prosecutor has submitted that the victim was examined on 29.04.2024 in part and therefore on the next date though she was present in the Court she could not be examined as she was not well and after that on several dates the victims remain absent.

11. The learned Additional Public Prosecutor has submitted that though the victim girl has not objected to the grant of bail, however from records it appears that on 15.03.2025⁴ when the victim girl was present before the Trial Court there is an observation made in the order passed by the Court on that day that one of the defence counsel try to influence the witnesses when they were waiting in the witness room.

12. I have considered the submissions made by the learned counsel for the parties as well as perused the materials available on record.

13. It appears that the testimony of victim girl was recorded in part on 29.04.2024 and thereafter she failed to appear before the Trial Court on several dates. It is also appears that the petitioner has been detained behind the bars

for last 1 year 10 months. Moreover, considering the submissions made by the engaged counsel for the victim girl that the victim girl has no objection if the petitioner is granted bail, this court is inclined to grant bail to the present petitioner subject to certain condition.

14. In view of what has been stated hereinabove the petitioner BipulBaruah is allowed to go on bail forRs. 30,000/- with on surety of like amount subject to the satisfaction of the learned Special Judge, POCSO, Morigaon with following condition:-

(i) That the petitioner shall regularly appear before the Trial Court on each and every date fixed by the Trial Court or whenever the trial Court directs toappear before the said Court.

(ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to the victim girl or to any of the listed witnessesin the case pending against the petitioner so as to dissuade such victim/witness from inducing against him the pendingtrial.

15. With the above observation this Bail Application stands disposed of.

JUDGE

Comparing Assistant