

GAHC010175242024



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

Case No. : Bail Appln./2580/2024

LEENA KALITA @ MOMI KALITA
D/O ACHYUT KALITA, R/O VILL- TRINAYAN NAGAR AMINGOAN, P.S.-
NORTH GUWAHATI, DIST- KAMRUP (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S K JAIN, MR. B N DEKA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 10.09.2024

- 1.** Heard Mr. S. K. Jain, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioner, namely, Leena Kalita @ Momi Kalita, who has been detained behind the bars since 04.08.2024 (for last 37 days) in connection with North Guwahati P. S. Case

No. 109/2024 under Section 123 of B.N.S.S., 2023.

3. The gist of accusation against the present petitioners in this case is that on 02.08.2024 one Smti. Hima Das, had lodged an FIR before the Officer-in-Charge of Amingaon Police Station, *inter-alia*, alleging that the petitioner used to give tuition to the children of the informant, and some other children, at her residence, at Trinayan Nagar, under North Guwahati Police Station, in Kamrup District.

4. It is alleged that the petitioner used to provide "Mirinda", "Singra", "Bundiya Laddu" and "chocolate" to the children, whom she used to teach. It is also alleged that on 31.07.2024, she gave some tablets to some of the children, and after eating the said tablets, the children started vomiting and urinating and became weak.

5. The petitioner thereafter, took them to Tularam Bafna Hospital, without informing their parents. It is also stated in the FIR that, from there, the children were taken to GMCH for proper treatment.

6. Learned counsel for the petitioner has submitted that the petitioner has not committed any offence, and she has bona fide provided the vitamin tablets and other food to the children whom she was tutoring.

7. It is also submitted by the learned counsel for the petitioner that when some of the children fell sick after taking the tablets, it was the petitioner who immediately took them to the hospital, and had she had any mala fide intention, she would not have done so.

8. Learned counsel for the petitioner has also submitted that the petitioner, being a lady, has been detained behind the bar for last 37 days, and considering the long period of detention, she may be allowed to go on bail. She also submits that, the petitioner is ready to cooperate in the investigation.

9. On the other hand, learned Additional Public Prosecutor has produced the case diary of North Guwahati P. S. Case No. 109/2024, and has vehemently opposed the grant of bail to the petitioner, on the grounds that, the petitioner intentionally gave tablets to the children whom she was tutoring, without informing the same to

their parents.

10. Learned Additional Public Prosecutor also submits that though, the statement of the victim students are recorded under Section 183 of the BNSS, 2023, however, the forensic report of the tablets seized in this case is not yet received. He also submits that there is a probability that the tablets may be narcotic drug and psychotropic substances, and therefore, unless the forensic report is received, the petitioner should not be allowed to go on to bail.

11. I have considered the submissions made by the learned counsel for both the sides, and have perused the materials on record.

12. It appears from record that, on the date of incident, when the student/victims fell sick by consuming the tablets, it was the petitioner who herself took them to the hospital first.

13. It also appears from record that, the investigation of this case has fairly progressed and the Investigating Officer has recorded the statement of victim children as well as the complainant, and the case is pending only for the receipt of forensic laboratory report.

14. The apprehension showed by learned Additional Public Prosecutor that the tablets may also be narcotic drugs or psychotropic substances, at this stage, does not have any basis, except it only appears to be suspicion at this stage.

15. Considering the Petitioner being a woman, she is entitled to get special treatment while considering a bail application. Moreover, she has been detained behind bars for the last 37 days. Considering the period of detention as well as the progress of the investigation, this Court is of the opinion that, further custodial detention of the petitioner may not be necessary, for fair completion of investigation of North Guwahati P. S. Case No. 109/2024, if the petitioner cooperates with the Investigating Officer.

16. Hence, the petitioner, namely, Leena Kalita @ Momi Kalita is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount

subject to the satisfaction of the Chief Judicial Magistrate, Kamrup, Amingaon with the following conditions:

- i. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.
- ii. That the petitioner shall co-operate in the investigation.

17. With the above observation, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant