

GAHC010177332024



2024:GAU-AS:12597

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

Case No. : Bail Appln./2649/2024

NUR ALOM @ MANGLU
S/O WAHAB ALI
VILL- ANTHAIBARI,
P.O. ANTHAIBARI, P.S. GOSSAIGAON
DIST. KOKRAJHAR, ASSAM, PIN-783360

VERSUS

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

2:JAMIR ALI
S/O NO. 2 HASRAWBARI
P.O. SERFANGURI
P.S. GOSSAIGAON
DIST. KOKRAJHAR
ASSAM PIN-78334

Advocate for the Petitioner : MR. S AHMED, MS N AKTAR,MS. M. KHATUN

Advocate for the Respondent : PP, ASSAM, Ms. R. R. BORAH(R-2),MR. A A R KARIM (R-2)

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

12-12-2024

Heard Mr. S. Ahmed, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the opposite party No.1. Also

heard Mr. A. A. R. Karim, learned counsel appearing for the informant/opposite party No.2.

2. By this application, the petitioner, namely, **Nur Alom @ Manglu**, son of Wahab Ali, resident of Village-Anthaibari, Police Station-Gossaigaon, District-Kokrajhar has filed this application under Section 483 BNSS, 2023 seeking bail in **Special (POCSO) Case No. 26/2024** arising out of Gossaigaon P.S. Case No. 76/2020 registered under Section 366 IPC read with Section 4 of the POCSO Act, 2012, in which, he was arrested on 16.07.2024 and in custody since then.

3. As per the FIR dated 20.02.2020, lodged by the informant, the case is that on 11.02.2020 in the absence of the family members, the petitioner kidnapped the minor daughter, aged about 15 years and the petitioner informed the son of the informant that he kidnapped his sister and took her to Guwahati. On approach, though the father of the petitioner assured the informant that he will do the needful to recover the victim girl, but she was not recovered. Later, the informant re-approached the father of the petitioner, but his daughter was not handed over to him. As such, on 20.02.2020, he filed the FIR before the authority of Sapkata Out Post under Gossaigaon Police Station to recover his daughter and to punish the accused person accordingly. Said FIR was initially registered as Sapkata OP GD Entry No.298 dated 20.02.2020 and was later registered as Gossaigaon P.S. Case No.76/2020 corresponding to G.R. No.96/2020 under Section 366(A) IPC read with Section 6 of the POCSO Act.

4. After few days, the victim girl was recovered and charge-sheet was filed in the case against the petitioner under Section 4 of the POCSO Act.

5. The petitioner was released on bail by the Court of learned Special Judge (POCSO), Kokrajhar in said Gossaigaon P.S. Case No. 76/2020 by order dated

28.08.2020.

- 6.** Charge-sheet in said Special (POCSO) Case No. 26/2024 arising out of Gossaigaon P.S. Case No. 76/2020 under Section 366(A) IPC read with Section 6 of the POCSO Act was framed on 18.01.2022. The petitioner did not appear in said Special (POCSO) Case No. 26/2024 arising out of Gossaigaon P.S. Case No. 76/2020 on 04.11.2023, 28.11.2023, 20.12.2024, 20.01.2024, 20.02.2024, 27.03.2024, 12.04.2024, 18.05.2024 and 15.06.2024, as such, the learned Special Judge (POCSO), Kokrajhar issued Non-Bailable Warrant of Arrest (NBWA) against the petitioner and also summoned the bailor of the petitioner. On 16.07.2024, the petitioner along with his bailor surrendered before the Court of learned Special Judge (POCSO), Kokrajhar in said Special (POCSO) Case No. 26/2024 arising out of Gossaigaon P.S. Case No. 76/2020 and he was taken into custody on 16.07.2024 and since then, the petitioner is in custody.
- 7.** By order dated 05.09.2024, the record of said Special (POCSO) Case No. 26/2024 arising out of Gossaigaon P.S. Case No. 76/2020 was called for.
- 8.** From the records, it is seen that in the meanwhile, prosecution have adduced evidences of all of its witnesses.
- 9.** Mr. A. A. R. Karim, learned counsel for the informant/opposite party No.2 submitted that the evidence of prosecution witnesses is already closed and 13.12.2024 is the next date fixed for defence statement.
- 10.** Perused the evidence of the victim/PW-1, her medical report as well as her statement recorded by the learned Sub-Divisional Judicial Magistrate, Gossaigaon on 24.06.2020 under Section 164 CrPC.
- 11.** Considering the materials in the case records, the Court is of the view that detention of the petitioner in custody since 16.07.2024 cannot be considered for

his bail in said **Special (POCSO) Case No. 26/2024** arising out of Gossaigaon P.S. Case No. 76/2020 registered under Section 366 IPC read with Section 4 of the POCSO Act. Further, the case is in the state of recording of defence witnesses.

12. Accordingly, this bail application of the petitioner, **Nur Alom @ Manglu**, son of Wahab Ali in said **Special (POCSO) Case No. 26/2024** arising out of Gossaigaon P.S. Case No. 76/2020 registered under Section 366 IPC read with Section 4 of the POCSO Act, pending before the Court of learned Special Judge (POCSO), is **rejected**.

JUDGE

Comparing Assistant