

GAHC010182532024



2024:GAU-AS:12357

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

Case No. : Bail Appln./2690/2024

SANJAY RAM
S/O FULA RAM, R/O MAYUR KRISHNA HALL NEAR KALI MANDIR,
FATASIL AMBARI, P.S.-FATASIL AMBARI, DIST- KAMRUP (M), ASSAM

VERSUS

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

2:PINKI DEVI (NFORMANT)
R/O MAYUR KRISHNA HALL
NEAR KALI MANDIR
FATASIL AMBARI
P.S.-FATASIL AMBARI
DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MD S HOQUE, MS A BEGUM,MS B A AHMED,MS P MEDHI,MR. M DEKA

Advocate for the Respondent : PP, ASSAM, MR. SURAJIT DAS, (AMICUS CURIAE R2)

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

06/12/2024

Heard Mr. S Hoque, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State respondent. Also heard Mr. S Das, learned Amicus Curiae for the informant/respondent No. 2.

2. This application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioner, namely, **Sanjay Ram**, son of Fula Ram, resident of Mayur Krishna Hall, near Kali Mandir, Fatasil-Ambari, P.S. Fatasil-Ambari, District-Kamrup (Metro), seeking bail in **Fatasil-Ambari P.S. Case No. 142/2024** registered under Section 354(A) IPC read with Section 8 of POCSO Act corresponding to G.R. No. 2532/2024, wherein he was arrested on 03.05.2024 and is in custody since then.
3. Matter relates to sexually assaulting a minor girl of 4 years 7 months allegedly by the petitioner. With regard to the incident of sexual assault of a minor girl, just more than 4 years old, the informant respondent No. 2 lodged an FIR before the Officer-in-Charge of Fatasil-Ambari Police Station on 02.05.2024, which was accordingly registered as Fatasil-Ambari P.S. Case No. 142/2024 under Section 354(A) IPC read with Section 8 of POCSO Act.
4. It is submitted on behalf of the petitioner that considering his detention since 03.05.2024 in said Fatasil-Ambari P.S. Case No. 142/2024, he shall be considered for bail.
5. Perused the case records that was called for by order dated 09.09.2024.
6. From the case records, it is seen that after completion of investigation of the case, charge-sheet in said Fatasil-Ambari P.S. Case No. 142/2024 was submitted vide charge-sheet No. 103/2024 and the learned Special Judge (POCSO), Kamrup (Metro), Guwahati took cognizance of the offence under Section 354(A) IPC read with Section 4 of POCSO Act against the petitioner and the Special Judge (POCSO), Kamrup (Metro), Guwahati by order dated 03.06.2024 took cognizance of the offence under the above noted Sections.
7. After filing of the said charge-sheet in the case, Fatasil-Ambari P.S. Case No. 142/2024 was re-registered as Sessions Special Case No. 166/2024.
8. From the case record, it is seen that by order dated 08.07.2024 charge under Section 10 of the POCSO Act was framed against the petitioner in said Sessions Special Case No. 166/2024.
9. Perused the statement of the minor victim recorded under Section 164 Cr.P.C. by the learned Judicial Magistrate, First Class, Kamrup (Metro), Guwahati on 03.05.2024. Also perused the evidence of the minor victim PW1 recorded in camera and that of the informant respondent No. 2 PW2.
10. From the case records, it is seen that as per her birth certificate issued by the Registrars of

Birth and Death, Mahendra Mohan Choudhury Hospital, Guwahati on 08.01.2024, the date of birth of the minor victim is 11.09.2019. The incident occurred on 02.05.2024 and at the time of the occurrence, the minor victim was only 4 years 7 months old.

11. From the case records, it is also seen that the evidence of the minor victim who was thoroughly examined by the defence as well as her statement recorded under Section 164 Cr.P.C. on 03.05.2024 before the learned JMFC, Kamrup(Metro), Guwahati found to be intact and same.

12. From the case record, it is also seen that in the meanwhile, the petitioner has engaged new counsel before the learned Trial Court.

13. Considering the above, this Court is of the view that the detention of the petitioner in custody since 03.05.2024 cannot be considered for his bail in said Fatasil-Ambari P.S. Case No. 142/2024, considering that the trial of the Sessions Special Case No. 166/2024 is in progress.

14. Accordingly, this bail application of the petitioner, **Sanjay Ram**, in said **Fatasil-Ambari P.S. Case No. 142/2024** stands rejected.

15. The Gauhati High Court Legal Services Authority shall pay the remuneration to Mr. S Das, learned Amicus Curiae, appointed by the Court vide order dated 25.10.2024 for assisting the Court, appearing for the informant respondent No.2, on raising a Bill.

JUDGE

Comparing Assistant