

GAHC010191262023



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

Case No. : Bail Appln./3073/2023

AKASH MUNDA
S/O SRI GUDAAN MUNDA
R/O RAJMAI RAJAN GAON,
P.S. DEMOW,
DIST. SIVASAGAR, ASSAM

VERSUS

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

2:MADAN TANTI
S/O RAMMATI TAANTI
R/O RAJMAI RAJEN GAON

P.S. DEMOW

P.O. DEMOW
DIST. SIVASAGAR
ASSA

Advocate for the Petitioner : MR. B P BORAH

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 05.01.2024

- 1)** Heard Mr. P. J. Dutta, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent as well as Mr. K. U. Ahmed, learned counsel for the respondent.
- 2)** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Akash Munda, who has been detained behind the bars since 19.01.2023 (for last 351 days) in connection with Spl(P) Case No. 27/2023, pending before the Court of Special Judge (POCSO) Sivasagar.
- 3)** The petitioner is facing trial under Section 376(3) of the IPC read with Section 4 of the POCSO Act, 2012.
- 4)** It is submitted by learned counsel for the petitioner that out of 11 listed witnesses 8 witnesses have already been examined including the victim girl as well as the first informant. Only the Investigating Officer and two other witnesses are there to be examined.
- 5)** Learned counsel for the petitioner further submits that the petitioner would cooperate in the remaining part of the trial and there is no justification at this stage for keeping the present petitioner behind the bars as he is willing to face the trial.
- 6)** On the other hand, learned Public Prosecutor opposed the grant of the bail to the present petitioner on the ground that the victim was of only 13 years of age when the alleged offence was committed and there are serious

implicating materials against the present petitioner.

7) I have gone through the scanned copies of the case record of Spl(P) Case No. 27/2023, which was called for in this case and have considered the submissions of the learned counsel for both the sides.

8) The petitioner has been detained behind the bars for last 351 days and already the victim girl and the first informant have been examined and there is nothing on record which shows that the petitioner would abscond or evade the course of justice if he is enlarged on bail.

9) Hence, this Court is of the considered opinion that if the petitioner cooperates in the remaining portion of the trial his custodial detention may not be required for the purpose of fair completion of the trial.

10) In view of the above, the petitioner, namely, Akash Munda, is hereby 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 learned Special Judge (POCSO) Sivasagar with the following conditions:

- i. That the petitioner shall continue to appear before the Trial Court on each and every dated fixed by the Trial Court;
- ii. That the petitioner shall not leave the jurisdiction of the Trial Court without prior permission of the Trial Court; and
- iii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any witnesses or any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the Spl(P) Case No. 27/2023.

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

JUDGE

Comparing Assistant