

GAHC010199662024



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

Case No. : Bail Appln./2968/2024

JAINAL ABDIN
S/O ABUL KASHEM @ KASHEM ALI, R/O VILL- BARKHABAL, P.S.-
LAHARIGHAT, DIST- MORIGAON, ASSAM

VERSUS

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

2: SIRAJ ALI
S/O LATE HAMED ALI
R/O VILL- BALIPARA
P.S.-BHURAGAON
DIST- MORIGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR. A R SIKDAR, MR. S I TALUKDAR

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

29/10/2024

Heard Mr. A R Sikdar, learned counsel for the petitioner and Ms. S H Bora, learned Additional Public Prosecutor, Assam for the State respondent.

2. This application under Section 483 of BNSS, 2023 has been filed by the petitioner, namely, **Jainal Abdin**, son of Abul Kashem @ Kashem Ali, resident of Village-Barkhabal, P.S. Laharighat,

District-Morigaon, seeking bail in **Bhuragaon P.S. Case No. 51/2024** registered under Sections 363/368/376 IPC read with Section 6 of POCSO Act, corresponding to G.R. No. 640/2024, wherein he was arrested on 31.07.2024 and is in custody since then.

3. As per the written Ejahar lodged by the informant/opposite party No. 2 that the petitioner about 1½ years back induced his minor daughter and thereby abducted her and kept her at Dimapur. Thereafter, he entered into an agreement that he will marry the informant's minor daughter on attaining her majority and requested the informant not to lodge any complaint against him. After keeping his minor daughter under his captive for about nine months and thereafter, for about two days in his house, he impregnated her and then he fled away. After five months of lodging of the FIR, his minor daughter gave birth to a minor child. Though the accused petitioner has been informed about it, but he did not return and did not look after his minor daughter with her child. The informant then went to the house of the accused petitioner and informed his family member about it and enquired about the petitioner, but he was informed that the petitioner left for Kerala. The said FIR was accordingly registered as Bhuragaon P.S. Case No. 51/2024 under Sections 363/368/376 IPC read with Section 6 of POCSO Act.

4. As per the forwarding report dated 31.07.2024, today is the 91st day of detention of the petitioner in said Bhuragaon P.S. Case No. 51/2024.

5. It is seen from the case diary that after arrest of the petitioner, as per the order of the Court, his blood sample was collected and sent for necessary report pertaining to DNA of the child given birth by the minor victim and the report is awaited. In the meanwhile, the investigation of the case has already been completed and due to non-availability of the said DNA report, charge-sheet in said Bhuragaon P.S. Case No. 51/2024 could not be filed.

6. It is seen from the note of the Investigating Officer of Bhuragaon Police Station that against the petitioner, another criminal case with regard to the same incident has been registered being Laharighat P.S. Case No. 254/2023 under Section 376 IPC read with Sections 6/17/21 of the POCSO Act read with Sections 9/10/11 of the Prevention of Child Marriage Act.

7. Pursuant to the order of the learned Special Judge (POCSO), Morigaon, said Bhuragaon P.S. Case No. 51/2024 has been amalgamated with Laharighat P.S. Case No. 254/2023.

8. On 28.10.2024, the Court asked Ms. Bora, learned Additional Public Prosecutor, Assam to apprise the Court as to whether any charge-sheet has been filed in said Laharighat P.S. Case No.

254/2023, fixing the matter today.

9. Today, on instruction, Ms. Bora, learned Additional Public Prosecutor, Assam submitted that even in Laharighat P.S. Case No. 254/2023, charge-sheet is yet to be filed.

10. Considering the above and since the petitioner has already completed the statutory/mandatory period of his detention in custody since 31.07.2024, the Court found that he is entitled for default bail in said Bhuragaon P.S. Case No. 51/2024.

11. Accordingly, the petitioner, namely, **Jainal Abdin**, is granted default bail in said **Bhuragaon P.S. Case No. 51/2024** registered under Sections 363/368/376 IPC read with Section 6 of POCSO Act, on furnishing a bail bond of Rs.50,000/- with 2 (two) local sureties of the like amount, one of which shall be a Government Employee either Central or State Government, to the satisfaction of the learned Special Judge (POCSO), Morigaon, on conditions that the petitioner — **(i)** shall appear before the Investigating Officer of said Bhuragaon P.S. Case No. 51/2024 as and when he is required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of the learned Special Judge (POCSO), Morigaon, without obtaining prior written permission from the said authority; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case; **(iv)** shall not, directly or indirectly, make any inducement, threat or promise to the victim, her family members or to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; **(v)** shall not involve himself in any criminal activities and **(vi)** shall surrender his passport, if any, before the learned Special Judge (POCSO), Morigaon on or before 06.11.2024, obtaining necessary acknowledgment in that regard, failing which, the bail granted to him in the aforesaid Bhuragaon P.S. Case No. 51/2024 shall stand automatically vacated.

12. This bail application accordingly stands disposed of with the above directions.

JUDGE

Comparing Assistant