

GAHC010199922024



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

Case No. : Bail Appln./2924/2024

AMINUR ISLAM @ AMINUL HOQUE SARKAR AND 3 ORS.
S/O SOLEMAN SARKAR, R/O VILL- 1 NO. BASHBARI, P.S.-MANIKPUR,
DIST- BONGAIGAON, ASSAM

2: AMINUR ISLAM
S/O JUNAB ALI
R/O VILL- 1 NO. BASHBARI
P.S.-MANIKPUR
DIST- BONGAIGAON
ASSAM

3: JAMIRUL HOQUE
S/O SATTAR ALI
R/O VILL- 1 NO. BASHBARI
P.S.-MANIKPUR
DIST- BONGAIGAON
ASSAM

4: MANIK ALI
S/O SAMAD ALI
R/O VILL- 1 NO. BASHBARI
P.S.-MANIKPUR
DIST- BONGAIGAON
ASSA

VERSUS

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

2: ATOWAR ALI
S/O LATE SABER ALI
R/O VILL- NO. 5 BASHBARI
P.S.-MANIKPUR

DIST- BONGAIGAON
PIN-78333

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR, MR A K DAS

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

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

23.10.2024

Heard Mr. M. Khan, learned counsel appearing for the accused petitioners. Also heard Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent No.1 and Mr. A. Buragohain, learned counsel appearing for respondent No.2.

By filing this petition under Section 483 of the BNSS, 2023 the accused-petitioners, namely, **(1) Aminur Islam @ Aminul Hoque Sarkar (2) Aminur Islam (3) Jamirul Hoque and (4) Manik Ali**, have prayed for grant of bail in connection with **Manikpur P.S. Case No.116/2024** under Sections **64/75 / 137(2) of BNS, R/W Section 4/8 of POCSO Act.**

It is submitted by the learned counsel for the petitioners that the victim has love affair with one Rahul Ali and on the date of incident on receipt of a phone call from the victim, Rahul Ali came out to meet her but on the way his bike was not functioning properly and the victim asked for help from the present petitioners. It is further submitted that the petitioners are no way connected with the alleged offence. It is also submitted that the accused petitioners have been languishing in judicial custody for last 58 days since their arrest on 24.08.2024. Considering the length of detention, prayer for bail may be considered.

Mr. Sarma, learned Additional Public Prosecutor has produced the case diary and has made objection in granting bail to the petitioner Nos. 1 and 2 as petitioner No.1 has committed rape on the victim and petitioner No.2 has touched her body inappropriately. However, he submitted that there is no implication of the petitioner No.3 and 4 with the alleged incident and they may be enlarged on bail.

Mr. Buragohain, learned counsel appearing on behalf of respondent No.2 submits that as per instructions from the informant, the matter has been settled between the parties and he has made no objection in granting bail to the petitioners.

I have heard the submission of the learned counsel for both the parties, also perused the case diary. It appears from the statement of the victim recorded under Section 164 Cr.P.C. that she has been sexually abused by the petitioner No.1 and 2. As per medical report, the victim sustained some injuries on her body Hence, the bail prayer of the petitioner Nos. 1 and 2 is rejected.

As there is no allegation against the petitioner Nos. 3 and 4, this Court is of the view that further custodial interrogation of the accused-petitioner Nos. 3 and 4 is not necessary in the interest of investigation of the case.

Accordingly, the petitioner Nos. 3 and 4 i.e. Jamirul Hoque and Manik Ali, shall be released on bail, on furnishing bail bond of **Rs.50,000/- each** with **two suitable sureties each** of the like amount, to the satisfaction of learned **Special Judge, Bongaigaon**.

The direction for bail is further subject to the conditions that the petitioners:

- (a) shall not leave the territorial jurisdiction of learned Special Judge, Bongaigaon without prior written permission from him/her;
- (b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Return the case diary.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant