

GAHC010203582023



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

Case No. : Bail Appln./3273/2023

BATEN ALI
S/O LATE RAIJ UDDIN
R/O VILL- BALKURI, P.S. KALGACHIA
DIST. BARPETA

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

2:MD. MAHMAD ALI
S/O LATE GAHAR ALI
R/O VILL- BURABURI
P.S. MAYANG
DIST. MORIGAON
ASSAM
PIN-78241

Advocate for the Petitioner : MR. K MIRA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 08-01-2024

Heard Mr. K. Mira, learned counsel for the petitioner Baten Ali.

The petitioner has filed this application under *Section 439 of the Code of Criminal Procedure* as he is behind bars since 06.03.2023 in connection with *Session Special Case No. 92/2023* arising out *Dispur Police Station Case No. 393/2023* under *Section 376(3) IPC read with Section 6 POCSO Act, 2012*.

Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.

Notice has been issued to respondent No. 2.

Seen the additional affidavit submitted by the petitioner relating to service of notice on the respondent No. 2. Seen the police report relating to service of notice on respondent No. 2 annexed with the additional affidavit.

The respondent No. 2 is not represented today.

The learned Additional Public Prosecutor has submitted that charge was framed against the present petitioner on 01.08.2023.

I have considered the submissions at the bar that not a single witness has been examined since 01.08.2023. The petitioner is 62 (sixty two) years old. He is a local resident. The petitioner has pledged to abide by any bail conditions purported to be imposed upon him. It is submitted that at this stage the petitioner may not be detained further.

Considering all aspects and in view of my foregoing discussions, petition is allowed.

The petitioner is enlarged on bail on furnishing a bail bond of *Rs.50,000/- (Rupees Fifty Thousand)* with a suitable surety of like amount to the satisfaction of learned Special Judge POCSO, Kamrup(M) under the conditions that:

(1) *The petitioner shall not go near the vicinity of the victim.*

- (2) *The petitioner shall not exercise threats to the witnesses.*
- (3) *The petitioner shall not tamper with the evidence.*
- (4) *The petitioner shall not leave the jurisdiction of the Court without prior permission till completion of the trial,*
- (5) *the petitioner shall cooperate with the trial.*

On breach of any bail conditions, bail order shall stand cancelled.

Bail Application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant