

GAHC010205042024



2024:GAU-AS:11723

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

Case No. : Bail Appln./3020/2024

JOYNUDDIN
S/O LATE NAZIM UDDIN, VILL- JOYPUR, P.S.-HOWLY, DIST- BARPETA,
ASSAM

VERSUS

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

2:AMIRJAN KHATUN @ NESSA
W/O IBRAHIM ALI
R/O VILL- HOWLY TOWN
WARD NO. 01
HOWLY
DIST- BARPETA
ASSA

Advocate for the Petitioner : MR P DAS, MR. N KOTHARI,MR Y KOTHARI,MR P PRAWAR

Advocate for the Respondent : PP, ASSAM, MR H A AHMED (R-2)

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

27.11.2024

Heard Mr. Y Kothari, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. H A Ahmed, learned counsel for the informant/ respondent No. 2.

2) By this application filed under Section 483 BNSS, 2023 the petitioner, namely, **Joynuddin**, son of Late Nazim Uddin, resident of Joypur, P.S.-Howly, District-Barpeta has prayed for his bail in **Special POCSO Case No. 49/2020**, arising out of Howly Police Station Case No. 75/2020 registered under Sections 420/342/506 of the IPC read with Section 12 of the POCSO Act, 2012 who was arrested on 09.03.2024 and is in custody since then.

3) The petitioner was charged under Sections 363/366 of the IPC read with Section 8 of the POCSO Act, 2012 on 05.01.2022 for committing the alleged crime of sexually assaulting the minor victim girl of 8 years of age by touching her breasts and private parts inside his room in absence of any other persons in his house, on the pretext of taking the victim minor girl to the market.

4) It is seen from the case records that was called for by the Court vide order dated 01.10.2024 that after the initial arrest of the petitioner in the case on 23.02.2020, he was released on default bail on 26.05.2020.

5) All along, the petitioner was in bail, even on the date of framing of charge, i.e., on 05.01.2022. However, as the petitioner did not appear before the learned Special Judge (POCSO), Barpeta, since 12.10.2023, on the strength of NBWA issued against him for his absence, the petitioner was arrested again on 09.03.2024 and since then, he is in custody.

6) It is seen that after recording the evidence of the prosecution witnesses, including that of the minor victim girl, the informant and the Investigating Officer of the said case, the Special Court also recorded the statement of the petitioner under Section 313 Cr.P.C. on 27.05.2024.

7) Since 07.06.2024 till 25.09.2024, though the learned Special Judge (POCSO), Barpeta granted time to the petitioner to adduce evidence of defence witness, but the petitioner failed to adduce any such defence evidence and on 25.09.2024, filed an application before the said Special Judge stating that the accused petitioner will not adduce any evidence.

8) Accordingly, by order dated 25.09.2024 evidence of defence witness was closed and since then, the matter is in the stage of argument.

9) During the deliberation of the matter, it is stated that the next date of the case before the learned Special Judge (POCSO), Barpeta is on 03.12.2024.

10) Finding such materials in the case record, the Court is of the view that it is not a fit case to grant bail to the petitioner, namely, **Joynuddin**, considering his detention in custody since 09.03.2024, in said Special POCSO Case No. 49/2020 arising out of Howly Police Station Case No.75/2020 at this stage.

11) As such, this bail application of the petitioner, named above, in said Special POCSO Case No. 49/2020, pending before the Court of the learned Special Judge (POCSO), Barpeta stands rejected.

JUDGE

Comparing Assistant