

GAHC010207262024



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

**Case No. : Bail Appln./3041/2024**

ANISUL ISLAM  
S/O RAJAB ALI, VILL- CHOUTAKI, P.O.-SALAKATI, P.S. AND DIST-  
KOKRAJHAR, ASSAM, PIN-783369

VERSUS

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

2:UTTAM SUNAR (INFORMANT)  
S/O BAL BAHADUR SUNAR  
VILL- SARALPARA  
P.O.- P.S. AND DIST- KOKRAJHAR  
ASSAM  
PIN-78337

**Advocate for the Petitioner** : MR. M U MAHMUD, MS. B CHETIA,MS. D BORA,MR S  
ISLAM,MR S H MAHMUD

**Advocate for the Respondent** : PP, ASSAM, MS B CHOUDHURY, AMICUS CURIAE (R-2)

**BEFORE**

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**13-11-2024**

Heard Mr. M. U. Mahmud, learned counsel for the petitioner and Mr. K. Baishya,  
learned Additional Public Prosecutor, Assam for the State. Also heard Mr. B. Choudhury,

learned Amicus Curiae, for the respondent No.2.

**2.** The petitioner, namely, **Anisul Islam**, son of Rajab Ali, resident of Village-Choutaki, P.O.-Salakati, Police Station-Kokrajhar, District-Kokrajhar has filed this application under Section 483 BNSS, 2023 praying for his release on bail in **Special Case No. 162/2024** arising out of Kokrajhar Police Station Case No. 114/2024 under Sections 363/368/376(3) of the IPC, read with Section 6 of the POCSO Act, 2012, in which he was arrested on 04.07.2024 and is in custody since then.

**3.** As per the FIR dated 22.05.2024, the case is that on 21.05.2024 in the morning at 07:00 while the informant's minor sister aged about 13 years AM left her residence to Bismuri by bus, then the accused petitioner kidnapped and confined her in some unknown place. In spite of search being made at various places she was not found. As such, by the said complaint, the informant/respondent No.2 requested the Officer-in-Charge of Bismuri Police Post to find out his minor sister and to take steps as per law against the accused person.

**4.** Accordingly, said FIR of the informant/respondent No.2 was entered as Bismuri Police Post GD Entry No. 320 dated 22.05.2024 and it was forwarded to the Kokrajhar Police Station for registering a case. On receipt of the FIR of said informant it was registered as Kokrajhar P.S. Case No. 114/2024 under Section 363/368 IPC corresponding to G.R. No. 233/2024.

**5.** Perused the records of the case that was called for by order dated 03.10.2024.

**6.** From the records of the case it is seen that on 04.06.2024 the minor victim herself appeared before the Kokrajhar Police Station and on 04.06.2024 itself the Investigating Officer of the case recorded the statement of the victim under Section 161 CrPC and also sent her to RNB Civil Hospital for her medical examination. Though, the victim undergone the medical examination but she refused to do any internal examination.

**7.** On 07.06.2024 her statement under Section 164 CrPC was recorded by the learned Judicial Magistrate, First Class, Kokrajhar wherein she stated that she had a love affair with the accused petitioner for the last two years and on coming to know about their

affairs, her family members objected to it and she was also beaten up. As such she on 20.05.2024 in the morning at 07:00 AM left for Gossaigaon and then she went to New Alipurduar with the petitioner. From New Alipurduar, both of them went to Chennai by train and on reaching Chennai, both of them stayed together therein in a rented house from 24.05.2024 to 31.05.2024 during which, on many occasions they had physical relationship. Later, on coming to know that her family members have filed police case against the petitioner, they on 01.06.2024 returned from Chennai and on reaching Kokrajhar, she surrendered before the Kokrajhar Police Station.

**8.** It is seen that as per her Birth Certificate issued on 31.07.2015 that was seized by police in the case, the date of birth of the minor victim is 10.09.2010. As such, during the period from 24.05.2024 to 31.05.2024, she was just above 13 years 8 months and was a minor.

**9.** On an application of the Investigating Officer of the case and pursuant to the order of the learned Chief Judicial Magistrate, Kokrajhar dated 10.06.2024 section 376(3) IPC read with Section 6 of the POCSO Act, 2012 was added in said Kokrajhar P.S. Case No. 114/2024 on the basis of the material collected by the Investigating Officer of the case during investigation and as been revealed in Section 164 CrPC statement of the victim.

**10.** The petitioner surrendered before the Court of learned Special Judge, Kokrajhar on 04.07.2024 and prayed for his bail as the said Kokrajhar P.S. Case No. 114/2024 was found registered under Section 363/368 IPC with added Section 376(3) IPC read with Section 6 of the POCSO Act, 2012. Finding the allegations very serious in nature and the offences being heinous, learned Special Judge, Kokrajhar by order dated 04.07.2024 rejected the bail prayer of the petitioner and since then, i.e., 04.07.2024, the petitioner is in custody. Hence this bail application

**11.** After completion of investigation of the case, police on 20.07.2024 filed charge-sheet in said Kokrajhar P.S. Case No. 114/2024 against the petitioner under Sections 363/368/376(3) IPC read with Section 6 of the POCSO Act, 2012. Accordingly, Special Case No. 162/2024 was registered and on 21.08.2024 charge under Section 6 of the

POCSO Act was framed against the accused petitioner.

**12.** From the records it is seen that the charge-sheet of said Kokrajhar P.S. Case No. 114/2024 contain names of 12 prosecution witnesses. In the meanwhile, learned Special Judge, (POCSO), Kokrajhar recorded the evidence of prosecution witness Nos. 1 and 2, i.e., the minor victim and the informant/respondent No.2 respectively and they were thoroughly cross examined by the defence. From the evidence of the minor victim PW-1, she is found to be consistent with her statement made under Section 164 CrPC in the case before the learned JMFC, Kokrajhar.

**13.** As per the charge-sheet filed in the case on 20.07.2024 the accused petitioner was of 21 years and it is seen that the trial of said Special Case No. 162/2024 is progressing.

**14.** Considering the entire aspect of the matter, this Court is of the opinion that further custodial detention of the petitioner is not warranted during the trial of said Special Case No. 162/2024. As such, this bail application of the petitioner is accepted.

**15.** Accordingly, the petitioner, namely, **Anisul Islam**, son of Rajab Ali be released on bail in said **Special Case No. 162/2024** arising out of Kokrajhar P.S. Case No. 114/2024 on furnishing a bail bond of Rs.50,000/- with two local sureties of the like amount, to the satisfaction of the learned Special Judge (POCSO), Kokrajhar on conditions that the said petitioner —

- (i) shall appear before the learned Special Judge (POCSO), Kokrajhar during the trial and on the dates so fixed of said **Special Case No. 162/2024** arising out of Kokrajhar P.S. Case No. 114/2024 and as and when he is required for his appearance in the said case;
- (ii) shall not leave the territorial jurisdiction of said learned Special Judge (POCSO), Kokrajhar, without obtaining prior written permission from the said authority;
- (iii) shall not hamper or tamper with the evidence of the case;
- (iv) 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 them from disclosing such facts to the Court;

**(v)** shall not involve himself in any criminal activities and

**(vi)** shall not threat the minor victim girl or anyone in her family by himself or by others or by anyone, acting on his behalf.

**16.** Any violation of the aforesaid terms and conditions by the petitioner, namely, **Anisul Islam**, the bail granted to him in said **Special Case No. 162/2024** arising out of Kokrajhar P.S. Case No. 114/2024 shall stand automatically vacated.

**17.** With the above observations and directions, this bail application accordingly stands disposed of.

**JUDGE**

**Comparing Assistant**