

GAHC010211652024



2024:GAU-AS:12457

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

Case No. : Bail Appln./3102/2024

JOHIDUL ISLAM
S/O SOBAHAN MIAH, R/O BALARCHAR, P.S.-MERERCHAR, DIST-
BONGAIGAON, ASSAM

VERSUS

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

2:JOYNAL ABEDIN
S/O MD. MUZAFAR ALI
VILL- NO. 7 BASHBARI
P.S.-MANIKPUR
DIST-BONGAIGAO

Advocate for the Petitioner : MRS. B GOGOI, MS M BORAH

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

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

10/12/2024

Heard Mr. K Rahman, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State respondent No. 1. Also heard Mr. U Choudhury, learned counsel appearing on behalf of Ms. B Choudhury, learned counsel for the informant/respondent No. 2.

2. This application under Section 483 of BNSS, 2023, has been filed by the petitioner, namely, **Johidul Islam**, son of Sobahan Miah, resident of Balarchar, P.S. Mererchar, District-Bongaigaon,

seeking bail in **Manikpur P.S. Case No. 125/2024** registered under Sections 75/115(2)/64 of BNS read with Section 6 of POCSO Act.

3. Petitioner is an FIR named accused in said Manikpur P.S. Case No. 125/2024 under Sections 75/115(2)/64 of BNS. The petitioner was arrested on 10.09.2024 and he was also produced before the learned Special Judge, Bongaigaon on 10.09.2024 itself.

3. As per the FIR dated 09.09.2024 lodged by the informant/complainant, the case is that about 5/6 months prior to lodging of the FIR, when the daughter of the informant was coming to and fro to her school, the accused petitioner used to disturb her. On coming to know about it, the informant went to the house of the accused petitioner and complained his father about it. On 05.09.2024, at about 7:00 AM, the accused petitioner lured his daughter and kept her in his house and ran away from there and at about 11:30 AM, the father of the accused person physically assaulted his daughter. Later, the informant came to know that the accused petitioner forcefully committed sexual relation with her.

4. Mr. Sarma, learned Additional Public Prosecutor, Assam, submitted that the case diary is available with him and as per instruction, police is yet to submit charge-sheet in said Manikpur P.S. Case No. 125/2024.

5. Since 10.09.2024, till date, the petitioner is in custody for more than 92 days and has already completed the statutory/mandatory period of his detention in custody.

6. In view of the above, the petitioner is entitled for his default bail in said Manikpur P.S. Case No. 125/2024.

7. Accordingly, the petitioner, namely, **Johidul Islam**, son of Sobahan Miah, is granted default bail in said **Manikpur P.S. Case No. 125/2024** registered under Sections 75/115(2)/64 of BNS read with Section 6 of POCSO Act, on furnishing a bail bond of Rs.50,000/- with 2 (two) local sureties, each 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), Bongaigaon, on conditions that the petitioner —

(i) shall appear before the learned Special Judge (POCSO), Bongaigaon in said Manikpur P.S. Case No. 125/2024 on every Thursday commencing from 19.12.2024 for the next 3 (three) English Calendar months during office hours or till filing of the charge-sheet in the case,

whichever is earlier and also as and when he is required in connection with the said Manikpur P.S. case;

(ii) shall not leave the territorial jurisdiction of the learned Special Judge (POCSO), Bongaigaon, 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 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 indulge himself in any criminal activities in future;

(vi) shall surrender his passport, if any, before the learned Special Judge (POCSO), Bongaigaon on or before 19.12.2024, obtaining necessary acknowledgment in that regard and

(vii) shall not induce, threat or commit any crime with the victim girl and/or the informant and/or any of their family members by himself or by any one from his family or by anyone acting on his behalf or his family,

failing which, the bail granted to him in said Manikpur P.S. Case No. 125/2024 shall stand automatically vacated.

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

JUDGE

Comparing Assistant