

GAHC010212812024



2024:GAU-AS:11764

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

Case No. : AB/2714/2024

JAHANGIR ALOM
S/O- LATE JOYNAL ABDIN, R/O- VILL.- DAKHIN KHATOWAL, P.S.
RUPAHIHAT, DIST. NAGAON, PIN- 782125, ASSAM

VERSUS

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

2:KUDRAT ALI
S/O- LATE MEHER ALI
R/O- DAKHIN KOTUWAL
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782125

Advocate for the Petitioner : MR D J HALOI, MR. S A HUSSAIN, M.A. ISLAM, MR H A RASHID

Advocate for the Respondent : PP, ASSAM, MR. A M KHAN (R-2), MR S PRODHANI(R-2)

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

27.11.2024

Heard Mr. D. J. Haloi, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for State respondent No.1 and Mr. A. M. Khan, learned counsel for the respondent No.2.

This application has been filed under Section 438 of the Code of Criminal Procedure, 1973, praying for the grant of pre-arrest bail to the accused/petitioner in connection with Special POCSO Case No. 99/2024, arising out of Rupahihat P.S. Case No. 425/2023, registered under Sections 363/376/313 of the IPC, *read with* Section 4 of the POCSO Act, 2012, which is pending before the Court of the learned Additional Sessions Judge-cum-Special Judge (POCSO), Nagaon.

The scanned copy of the case record has been received, and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Haloi, that the petitioner is innocent and he is no way involved in the alleged offence. He further submitted that, from the certified copy of the FIR obtained by the petitioner, as well as from the statement made in the charge-sheet, it is revealed that the victim girl is deaf and dumb. He also submitted that there is a contradiction in the date of registration of the FIR concerning the G.D. entry and the medical report collected by the Investigating Officer (IO). It has been alleged that the victim was recovered one week after the alleged incident, but

the medical report indicates otherwise, showing that the victim was examined only the day after the incident. Furthermore, the doctor did not find any signs of forceful intercourse with the victim girl.

He further submitted that the petitioner was unaware of the pendency of the case and only became aware of it after receiving the summons and obtaining the certified copy of the FIR and other relevant documents. It was then that the petitioner learned that the case had been charge-sheeted against him, wherein he was shown as an absconder. The petitioner is ready and willing to appear before the learned trial court and contest the case on each and every date fixed by the trial court, provided some interim protection is granted to him.

In this context, Mr. Goswami, learned Additional Public Prosecutor, has submitted that although the certified copy and the medical documents, etc., were collected by the Investigating Officer (IO), the statement of the victim is not available in the case record. He further submits that the petitioner may be directed to appear before the learned trial court with a proper application for bail, which may be considered in accordance with the law.

On the other hand, Mr. Khan, learned counsel for respondent No. 2, has submitted that he has no objection if the accused/petitioner is directed to appear before the trial court, as his appearance would facilitate a speedy trial.

Considering the submissions of learned counsels for both sides as well as on perusal of the case record and also considering the fact that the case has already been Charge-Sheet dated 29.02.2024 under Sections 363/376 of IPC read with Section 4 of the POCSO Act, it is provided that the petitioner shall appear before the learned Court below within 10 (ten) days from today and on his appearance and on his filing a petition for grant of regular bail, the learned

Court below shall consider the same in accordance with law. Till then, no coercive action shall be taken against the present petitioner.

However, till his appearance before the learned Court below, it is provided that in the event of arrest of the accused/petitioner, namely, Jahangir Alom, in connection with Special POCSO Case No. 99/2024, arising out of Rupahihat P.S. Case No. 425/2023 pending before the Court of learned Additional Sessions Judge-cum-Special Judge (POCSO), Nagaon, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority.

Furthermore, it is important to note that this order has been passed in the context of the facts and circumstances of this case only.

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

JUDGE

Comparing Assistant