GAHC010226822024

2024:GAU-AS:12605

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

Case No. : Bail Appln./3309/2024

JAYANTA SAIKIA
S/O SRI PABITRA SAIKIA
R/O VILL- BORIGAON
DHALPUR
P.S.-BIHPURIA
DIST- LAKHIMPUR
ASSAM

VERSUS

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

2:SMTI. RAJLAKSHMI SAIKIA
D/O SRI RAM PRASAD SAIKIA
R/O BORIGAON
DHALPUR
P.S.-BIHPURIA
DIST-LAKHIMPUR

Advocate for : MR. P HAZARIKA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

12.12.2024

Heard Mr. P Hazarika, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam, for the State/respondent No. 1. Also heard Mr. P J Dutta, learned counsel for the informant/respondent No. 2.

2) The petitioner, namely, **Sri Jayanta Saikia,** son of Sri Pabitra Saikia, resident of village Borigaon, Dhalpur, P.S.-Bihpuria, District-Lakhimpur has filed this application under Section 483 BNSS, 2023, seeking his bail in **Bihpuria Police Station Case No. 155/2024**, registered under Sections 64/77 BNS, 2023 read with Section 6 of the POCSO Act, 2012 read with Section 67(B) of the IT Act, 2000, corresponding to G.R. No. 726/2024, wherein, he was arrested on 13.09.2024 and is in custody since then.

3) As per the FIR dated 12.09.2024 lodged by the informant/ victim/opposite party No. 2, the case is that way back in the year 2020, while the informant/victim was a student of class-XI, she had a relationship with one co-accused of the case, namely, Jhijit Bharali and used to spend time with him, which, in due course of time, developed into an intimate relationship. However, without the knowledge of the informant/victim, accused Jhijit Bharali took some photographs and videos of their intimacy, which he forwarded to the petitioner herein, who in turn forwarded the same to another co-accused of the case, namely, Pranjit Borah. These obscene photographs and videos of hers were made viral by the accused persons of the case and thereby, informant has been mentally harassed and her modesty has been outraged. As such, she approached the Officer-in-Charge of Bihpuria Police Station and prayed before the said authority to take necessary legal action against those three accused persons of the case.

4) Accordingly, Bihpuria Police Station Case No. 155/2024 under Sections 64/77 BNS, 2023 read with Section 6 of the POCSO Act, 2012 read with Section 67(B) of the IT Act, 2000, corresponding to G.R. No. 726/2024 was registered.

5) The petitioner herein, along with the other co-accused persons, namely, Jhijit Bharali and Pranjit Borah, were arrested on 13.09.2024 and they were also produced before the learned

Special Judge (POCSO), Lakhimpur, North Lakhimpur.

6) From the case records that was called for by the Court vide order dated 30.10.2024, it is seen that police has already seized the birth certificate of the victim girl, issued by the Directorate of Health Services, Government of Assam, on 19.08.2023, which indicates the date of birth of the victim girl was 15.07.2003. As such, at the time of the incident in the year 2020, the victim girl was a minor of just 17 years of age.

7) On being enquired, Mr. B Sarma, learned Additional Public Prosecutor, Assam submitted that due to non-receipt of the FSL report pertaining to the seized mobile in the case, police could not file the charge-sheet in said Bihpuria P.S. Case No. 155/2024 till date.

8) In the meanwhile, the petitioner, since 13.09.2024, has completed 91 days in custody and hence, completed the mandatory period of detention. Therefore, the petitioner is entitled for his default bail in said Bihpuria P.S. Case No. 155/2024

9) Accordingly, the petitioner, namely, **Sri Jayanta Saikia,** son of Sri Pabitra Saikia, is granted default bail in said Bihpuria P.S. Case No. 155/2024 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), Lakhimpur, North Lakhimpur, subject to the conditions that the petitioner, named above —

i) shall appear before the concerned Investigating Officer of said Bihpuria P.S. Case No. 155/2024, every Thursday, for the next three English calendar months commencing from 19.12.2024 or till filing of the charge-sheet in the case, whichever is earlier and further, as and when he is required in said Bihupuria P.S. Case No. 155/2024, either before the Investigating Officer of the case or before the Court concerned, as the case maybe;

ii) shall not leave the territorial jurisdiction of Bihpuria Police Station without obtaining prior written permission from the Investigating Officer of said Bihpuria P.S. Case No. 155/2024;

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 threat the victim girl or any other members of her family, by himself or by anyone or by others, acting on his behalf;

vi) shall not involve himself in any criminal activities in the future.

10) Any violation of the aforesaid terms and conditions by the petitioner, namely, **Sri Jayanta Saikia,** son of Sri Pabitra Saikia, the bail granted to him in said Bihpuria P.S. Case No. 155/2024, shall stand automatically vacated.

11) This bail application accordingly stands allowed.

JUDGE

Comparing Assistant