

GAHC010236012024



2024:GAU-AS:12909

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

Case No. : Bail Appln./3425/2024

ANOWAR RAHMAN @ HUSSAIN @ ANAR ALI
S/O ANCHAR ALI
R/O VILL- GHARUABAHA
P.O. MUGDI
P.S. NALBARI,
DIST.NALBARI, ASSAM
PIN-781312

VERSUS

THE STATE OF ASSAM AND ANR.
REP BY THE PP, ASSAM

2:AKRAM ALI
S/O LT. ABDULHAMED
VILL- GHARUABAHA
P.O. MUGDI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
PIN-78131

Advocate for the Petitioner : MR S ISLAM, MR. R ISLAM

Advocate for the Respondent : PP, ASSAM, MR. A MOBARAQUE (R-2)

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

ORDER

18.12.2024

Heard Mr. H R A Choudhury, learned Senior Counsel assisted by Mr. S Islam, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State/respondent No. 1. Also heard Mr. A Mobaraque, learned counsel for the informant/respondent No. 2.

2) By this application filed under Section 483 BNSS, 2023, the petitioner, namely, **Anowar Rahman @ Hussain @ Anar Ali**, son of Anchar Ali, resident of village Gharuabaha, Police Station-Mukalmua, District-Nalbari is praying for his bail in **Mukalmua Police Station Case No. 269/2024**, registered under Sections 64/77/351(2) BNS, 2023 read with Section 6 of the POCSO Act, 2012, wherein, he was arrested on 01.10.2024 and is in custody since then.

3) As per the written ejahar dated 05.09.2024 of the informant/respondent No. 2 before the Officer-in-Charge of Daulashal Police Outpost under Mukalmua Police Station, the case is that since the last 5 months, the petitioner used to forcefully commit rape on his minor daughter, who is 17 years and 8 months old and that the petitioner used to climb on a tree, which is nearby the place where the daughter of the complainant/informant used to take her bath and thereby, take pictures of her while she was bathing. The petitioner then showed the minor victim girl those obscene photographs of her, stating that the said photographs will be made viral by the petitioner if she does not listen to him and thereupon, committed rape on the minor victim girl on multiple occasions during the last 5 months. Later, the petitioner asked the minor victim girl to come to his house, but the said request of the petitioner was ignored by the minor victim girl. Thereafter, the petitioner sent Whatsapp messages to the brother of the minor victim girl and also forwarded recordings of having phone calls with the minor victim girl, along with the photographs of her obscene scenes and accordingly, the brother of the minor victim girl informed about the same to the informant. It is also indicated in the FIR that the second daughter of the informant is married to the brother of the petitioner and the petitioner also informed the complainant/informant that if the said incident is reported to anyone, his second daughter will have to face dire consequences.

4) The said ejahar of the informant/complainant was registered as Daulashal O.P. G.D. Entry No. 79 dated 05.09.2024, which was subsequently registered as Mukalmua Police Station Case

No. 269/2024 under Sections 64/77/351(2) BNS, 2023 read with Section 6 of the POCSO Act, 2012.

5) Mr. H R A Choudhury, learned Senior Counsel appearing for the petitioner submitted that considering the length of detention of the petitioner in custody, since 01.10.2024, he should be released on bail in said Mukalmua P.S. Case No. 269/2024.

6) Mr. H R A Choudhury, learned Senior Counsel appearing for the petitioner also submitted that the victim girl is a major and that the petitioner is no longer required for the investigation of said Mukalmua P.S. Case No. 269/2024.

7) Mr. A Mobaraque, learned counsel for the informant/respondent No. 2 submitted that considering the length of detention of the petitioner in custody, since 01.10.2024, he should be released on bail.

8) Perused the case diary placed before the Court today by Mr. B Sarma, learned Additional Public Prosecutor, Assam.

9) Perusal of the case diary reveals that police have already seized the birth certificate of the minor victim girl issued by the Registrar of Births and Deaths, Mukalmua P.H.C., District-Nalbari on 07.07.2015, indicating the date of birth of the victim girl as 02.01.2007 and on that basis, the victim girl was a minor of just 16 years and 11 months old at the time of the incident, since the incident occurred 5 months prior to the filing of the FIR.

10) Perusal of the case diary also reveals that the petitioner fled away from the place of occurrence. However, he was subsequently arrested at the Garchuk area of Guwahati, on 01.10.2024.

11) From the statement of the girl recorded under Section 183 BNSS, 2023 by the learned Judicial Magistrate First Class, Nalbari, on 06.09.2024, it is seen that the minor victim girl implicated the petitioner and further stated as to how the petitioner had forcefully committed rape on her on more than three occasions, since 01.09.2024, in spite of her objection and resistance and also threatened her of dire consequences if she discloses about the same to anyone, as he had recorded all such obscene videos and photographs of her, while committing rape on her.

12) Considering such materials in the case diary, the Court is of the view that it is not a fit case to grant bail to the petitioner considering his detention in custody, since 01.10.2024, in said

Mukalmua P.S. Case No. 269/2024, as case diary reflects sufficient ingredients regarding his involvement in the heinous crime of committing rape on a minor girl of 16 years and 11 months.

13) Accordingly, this bail application of the petitioner, namely, **Anowar Rahman @ Hussain @ Anar Ali**, son of Anchar Ali, in said **Mukalmua Police Station Case No. 269/2024**, stands rejected.

14) Return the case diary herewith.

JUDGE

Comparing Assistant