

GAHC010237392024



2024:GAU-AS:12459

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

Case No. : Bail Appln./3472/2024

MD NAZIMUDDIN AHMED
S/O - MD.NOIMUDDIN ALI @NAYMUDDIN ALI. R/O- VILL- BHANGNAMARI
@CHOIDALICHAR. P/S - BHANGANAMARI. DIST - NALBARI, ASSAM,

VERSUS

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

2:AYUB ALI
S/O- LATE EASIN ALI
R/O. VILL-KURIHAMARI PS- SIALMARI
DIST- NALBARI
ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY,

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

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

10.12.2024

Heard Mr. B Choudhury, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. F A Hassan, learned counsel for the respondent No. 2/informant of the case.

2. The petitioner, namely, **Md. Nazimuddin Ahmed**, son of Md. Noimuddin Ali @ Naymuddin Ali, resident of village-Bhangnamari @ Choidalichar, P.S.- Bhangnamari, District-Nalbari has filed this application under Section 483 BNSS, 2023, praying for his release on bail in Mukalmua Police Station Case No. 257/2024 registered under Sections 64 of BNS, 2023 read with Section 6 of the POCSO Act, 2012, corresponding to G.R. No. 826/2024, in which he was arrested on 01.10.2024 and is in custody since then.

3. As per the FIR dated 29.08.2024 lodged before the Superintendent of Police, Nalbari by the informant/opposite party No. 2, the case is that on 21.08.2024 when his minor daughter aged about 15 years was returning home from her school, the petitioner induced her and showing his love and affection took her to a nearby jute field where the petitioner committed rape on her in spite of her resistance and objection and threatened her that if she reveals about the said incident to others, she will face dire consequences. Initially fearing for her life the victim girl did not inform her parents, but on 29.08.2024 as she revealed about the said incident to her parents, the informant/father of the victim submitted the written complaint before the SP, Nalbari. The said written complaint was subsequently forwarded and accordingly, Mukalmua Police Station Case No. 257/2024 under Sections 64 of BNS, 2023 read with Section 6 of the POCSO Act, 2012 was registered against the petitioner.

4. The petitioner was taken into custody on 01.10.2024 and was produced before the learned Special Judge (POCSO), Nalbari.

5. Perused the case diary placed before the Court today by Mr. B Sarma, learned APP, Assam.

6. Mr. B Choudhury, learned counsel for the petitioner has submitted that the petitioner and the victim girl had love affair and that he has been falsely implicated in the case.

7. Mr. F A Hassan, learned counsel for the respondent No.2/informant has

submitted that the informant does not have any objection if the petitioner is released on bail, as in the meanwhile both the informant as well as the family members of the petitioner have compromised the matter outside the Court and sworn an affidavit before the Notary Public at Mushalpur, District-Baksa.

8. Mr. B Sarma, learned APP, Assam from the case diary has submitted that the statement of the victim girl recorded under Section 183 BNSS as well as her statement recorded before the police under Section 180 BNSS are found to be same, in which she implicated the petitioner with regard to his involvement in the alleged crime.

9. From the case diary it is seen that police have already seized the birth certificate of the victim girl which indicates that her date of birth is 01.01.2009 and as such, on the date of incident on 21.08.2024 the victim girl was a minor of 15 years 7 months. On the other hand, the petitioner is found to be of 22 years.

10. From the case diary, it is also seen that in her statement made before the learned Judicial Magistrate First Class, Nalbari on 30.08.2024, the victim girl indicated that the accused petitioner in spite of her resistance and objection forcefully committed rape on her.

11. Case diary also reveals that the accused petitioner used to stalk the minor victim whenever she used to go/return from her school. When the said incident was reported to her parents by the victim, her parents informed the mother and brother of the petitioner not to disturb the victim girl and in spite of that it is seen that the petitioner continued to stalk the minor victim girl.

12. Finding such incriminating materials in the case diary and considering the statement of the victim girl recorded under Section 180 BNSS before the police as well as her 183 BNSS statement recorded before the learned JMFC, Nalbari, this Court is of the view that this is not a fit case to grant bail to the petitioner, named above, who is involved in such a heinous crime with a minor girl.

13. Accordingly, this bail application of the petitioner, namely, **Md. Nazimuddin**

Ahmed, in Mukalmua Police Station Case No. 257/2024 stands rejected.

14. Return the case diary.

JUDGE

Comparing Assistant