

GAHC010238252023



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

Case No. : Bail Appln./3823/2023

PRASENJIT SARKAR
S/O GOUR SARKAR VILL. MODONABRI P.S JAGIROAD DIST. MORIGAON
ASSAM PIN 782411

VERSUS

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

2:KISHORE SARKAR
S/O LT. HIRALAL SARKAR R/O NOTUN BALIMUKH PS JAGIROAD DIST.
MORIGAON PIN 782411 ASSA

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 28-05-2024

Heard Mr. N.J. Dutta, learned counsel for the applicant and Mr. P Borthakur, learned Addl. PP, Assam appearing for the state respondent.

This application under section 439 of the Code of Criminal Procedure, 1973 is preferred by accused, namely, **Prasenjit Sarkar** who is facing trial in **POCSO Case No.226/2023** arising out of Jagiroad PS Case No.193/2023 under section **376(3)/506 IPC** read with section 6 of POCSO Act. The petitioner was arrested on 17.06.2023.

By referring to the materials available on record Mr. NJ Dutta submits that the version of the victim is self contradictory. According to Mr. Dutta no case under section 6 of the POCSO Act is made out.

Opposing such bail prayer, Mr. P Borthakur learned Addl. PP has urged that the statement of the victim as disclosed under section 164 Cr.P.C as well as her deposition clearly establishes the commission of the offence and it is the applicant who has committed the offence.

I have considered the arguments made at the bar and have also gone through the materials available on record including the statement of the victim recorded under section 164 Cr.P.C, her statement recorded under section 161 Cr.P.C as well her deposition before the court.

Therefore considering the nature and gravity of the offence and also considering the stage of trial and the materials so far available, this court is of the view that the applicant has failed to make out a case for grant of bail. Accordingly, the present application stands dismissed.

Before parting with the records of this case, it is made clear that the observations made hereinabove are purely for the purpose of disposal of the bail application and are tentative in nature. Such observations would not have any bearing on the trial of the case.

In terms of the above, this bail application stands dismissed.

JUDGE

Comparing Assistant