

GAHC010242832024



2024:GAU-AS:11297

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

Case No. : Bail Appln./3512/2024

KACHER ALI
S/O LATE SAKODDI SK.
R/O VILL- BHAMNDANGA PART-II, P.S. AGOMANI, DIST. DHUBRI, ASSAM

VERSUS

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

2:ACHIMA BIBI
(MOTHER OF THE ALLEGED VICTIM GIRL)
W/O SAMSER ALI
R/O VILL AND P.O. KHERBARI
P.S. AGOMANI
DIST. DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. M AHMED, MD I H LASKAR

Advocate for the Respondent : PP, ASSAM, MR. M ISLAM (R-2)

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

20.11.2024

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. D. P. Goswami, learned Additional Public Prosecutor for the State respondent and Mr. M. Islam, learned counsel for the respondent No.2.

This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of bail to the accused/petitioner, who has been languishing in jail *hazot* since 10.10.2024 in connection with Agomani P.S Case No. 87/2024 registered under Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006 *read with* Section 6/17 of the Protection of Children from Sexual Offences Act, 2012, *read with* Section 75 of the Juvenile Justice (Care and Protection of children) Act, 2000.

It is submitted by Mr. Ahmed, learned counsel for the petitioner, that the accused/petitioner is innocent and he is no way involved in the offence as alleged in the FIR. He is neither named in the FIR nor is there any specific allegation made against him. The petitioner has been falsely implicated in the instant case solely because he is the father of the FIR-named accused, i.e., his son. He contended that the petitioner's son and the victim were in a love affair, which is also reflected in the charge-sheet. Out of this love affair, they fled and got married, a fact which the present petitioner was unaware of. The petitioner, along with his family members, had no knowledge of the marriage and did nothing to facilitate it. At present, both the accused and the victim are living happily, and the victim has also given birth to a child. However, the present petitioner has been behind bar since 10.10.2024.

He further submitted that the case has already been charge-sheeted, and the

present petitioner is not the FIR-named accused. However, the police filed the charge-sheet against the petitioner, intimidating him in relation to the said offence. He also submitted that the petitioner is ready to appear before the Court as and when the date is fixed and, being a permanent resident of the locality, there is no chance of him absconding. Therefore, considering his length of detention, he may be enlarged on bail. Additionally, he is still ready and willing to co-operate with the Investigating Officer in further investigation of the case, if granted.

In this context, Mr. Goswami, learned Additional Public Prosecutor, has submitted that the case is registered under Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006, read with Section 6/17 of the Protection of Children from Sexual Offences Act, 2012. He therefore submitted that the scanned copy of the case record may be called for at this stage before passing any order on bail.

On the other hand, Mr. Islam, learned counsel, has submitted that respondent No. 2, i.e., the mother of the victim, has stated that the present accused/petitioner had no knowledge of the marriage between the victim and the accused. He further submitted that, at present, both the victim and the accused are living happily, and she has also given birth to a child. Therefore, he raised no objection to granting bail to the accused petitioner at this stage.

Considering the submissions of learned counsels for both sides, as well as the entire facts and circumstances of the case, and the materials available in the case record, including the statements made in the First Information Report (FIR) and the charge-sheet, as well as the length of detention already undergone by the accused/petitioner, I am of the view that the Investigating Officer (I.O.) had ample opportunity to interrogate the accused/petitioner while keeping him in custody. Therefore, further custodial interrogation of the accused/petitioner does not seem necessary in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, Dhubri, the accused/petitioner, namely Kacher Ali, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner 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 him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Special Judge, Dhubri, without prior permission.

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

JUDGE

Comparing Assistant