

GAHC010255692023



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

**Case No. : Bail Appln./4143/2023**

MONJURUL HOQUE @ HAMMAD  
S/O- LATE MISBAHUL HAQUE, VILLAGE- MURADPUR, P.O. KANAIBAZAR,  
P.S. PATHARKANDI, PIN- 788724, DISTRICT- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR  
TO BE REPRESENTED BY P.P., ASSAM

2:TAPASH MAZUMDER  
S/O- TAPAN CHANDRA MAZUMDER  
AGED ABOUT 38 YEARS  
R/O- SILCHAR ROAD  
P.S. AND DIST. KARIMGANJ  
ASSAM  
PIN- 78871

**Advocate for the Petitioner : MR. R A CHOUDHURY**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HON'BLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**08.01.2024**

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. R.A. Mazumder, learned counsel for the accused and also heard Mr. R.J. Baruah, learned Additional Public

Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Monjurul Hoque @ Hammad, who has been languishing in jail hazot since 20.07.2023, in connection with Special Session (NDPS) Case No.189/2023 arising out of Karimganj P.S. Case No.535/2023, under Section 354D/307/376D of the IPC read with Section 4 of the POCSO Act, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Tapash Mazumder on 20.07.2023. The essence of allegation made in the aforesaid FIR is that on 20.07.2023, at about 7:30 p.m. accused Monjurul Hoque who had tried to develop a relationship with his sister, stopped her sister near Senco Petrol Pump on PWD road and touched her private part and also tried to kill her by throwing acid and as his sister raised alarm, nearby people reached there and the accused along with two other persons attempted to kill him by sharp object and also throw acid bottle.

4. Mr. Choudhury, learned Senior counsel for the accused, submits that the accused was arrested on 20.07.2023 and since then he has been languishing in jail hazot for 172 days. Further, Mr. Choudhury submits that the investigation of the case has already been completed and the I.O. has submitted charge-sheet, being Charge-Sheet No.303, dated 28.07.2023, under Section 354D/354B/341/506/509 IPC read with Section 12 of the POCSO Act.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that though the case was registered under Section 354D/307/376D of the IPC read with Section 4 of the POCSO Act, yet the charge-sheet has been submitted only under Section 354D/354B/341/506/509 IPC read with Section 12 of the POCSO Act and that the case is pending for consideration of charge by the learned Court below.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused

the statement of the victim girl recorded under Section 164 Cr.P.C.

7. Having considered the submission of learned Advocates of both the parties and also considering the materials available on the record, this Court is inclined dispose of this petition by directing the accused to approach the learned Court below and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. The original copy of the statement of the victim girl recorded under Section 164 Cr.P.C. shall be returned to the learned Court below, under sealed cover.

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

**Sd/- Robin Phukan**  
**JUDGE**

**Comparing Assistant**