

GAHC010257222023



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

Case No. : Bail Appln./4181/2023

NASRUL HAQUE
S/O LATE HABIBUR RHAMAN
R/O RANGIA, WARD NO. 10,
P.S. RANGIA
DIST. KAMRUP
PIN-781354
CONTACT NO. -94351-47853

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM
2:REHNA BEGUM
W/O ABDUL KADIR ,R/O RANGIA
WARD NO. 10, (YUSUF NAGAR)
P.S. RANGIA ,DIST. KAMRUP, PIN-78135

Advocate for the Petitioner : MR A R MEDHI
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 10-01-2024

Heard Mr. A. R. Medhi, learned counsel for the accused and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

This application, under Section 439 Cr.P.C. is preferred by accused, Nasrul Haque, who has been languishing in jail hajot since 12.08.2023, in connection with Rangia P.S. Case No. 456/2023, G.R.Case No. 847/2023 under Sections 450/376(3) IPC read with Section 4 of POCSO Act, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one Rehena Begum, on 11.08.2023.

The essence of allegation, made in the FIR, dated 11.08.2023, is that on 11.8.2023, at about 1 P.M. one Nasrul Haque entered into her house and committed rape upon her minor daughter, Smti 'X', and when her husband arrived at her house, then the accused tried to commit murder of her daughter by pressing her mouth with a pillow and then the accused fled away from the scene of occurrence.

The learned counsel for the accused submits that the accused is languishing jail hajot for last five months and the learned Court below has also examined the informant and the victim and out of the nine witnesses cited in the charge sheet after framing of charge and there is land dispute between the accused and the informant, and that the learned Court below has rejected the bail application of the accused twice, on the ground that if the accused is released on bail, he might cause threat and danger to life of the victim and other material witnesses and the accused will appear before the learned Court below on each and every date and therefore, it is contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. submits that the evidence of the victim is supported by the medical report and the offences are serious in nature and only two witnesses have been examined by the prosecution side till date, and therefore, Mr. Barua has opposed the petition.

Having heard the submission of learned Advocates of both the sides, I have

carefully gone through the petition and the documents placed on record and also perused the scanned copy of the record, received from the learned Court below.

It appears that the learned Court below has framed charge against the accused, under Section 450/376(3)/307 IPC read with Section 4 of the POCSO Act.

Further, it appears that as many as nine witnesses have been cited in the charge sheet, and out of the nine witnesses, only two witnesses, the informant and the victim have been examined, herein this case.

Having gone through the evidence of the witnesses examined by the learned Court below and also having considered the materials placed on record and also the nature and gravity of the offence, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused, at this stage. Accordingly, the petition stands dismissed.

However, the learned Court below is directed to expedite the trial and if necessary to take recourse of Section 309(1) Cr.P.C and to complete the same within earliest possible time, without being influenced by any of the observation made herein this case.

In terms of above, bail application stands disposed of.

JUDGE

Comparing Assistant