

GAHC010259712023



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

Case No. : Bail Appln./4206/2023

WAJID HUSSAIN @ MUNNA
S/O LATE HYDER HUSSAIN
R/O BORGURI, ANIRUDDHA DEV NAGAR, P.O., P.S. AND DIST. TINSUKIA,
ASSAM
PIN-786125

VERSUS

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

2:MISS RAIMA CHAKRABORTY
C/O SUPRATIM CHAKRABORTY
URBAN DHABA
OPPOSITE DURGA MANDIR

SUBOCHARINI ROAD

P.O.
P.S. AND DIST. TINSUKIA
ASSAM
PIN-78612

Advocate for the Petitioner : MR. BHASKAR DUTTA, SENIOR ADVOCATE

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 08-01-2024

1. Heard Mr. Bhaskar Dutta, learned Senior Counsel for the petitioner *Wajid Hussain@ Munna*.
2. The petitioner has filed this application under *Section 439 of the Code of Criminal Procedure* as he is behind bars since 01.09.2023 in connection with *POCSO Case No. 115/2023* arising out of *Tinsukia Police Station Case No. 518/2023* registered under *Sections 166A/342/354A/506/509/34/376/120B/195A/212 IPC* read with *Section 8/17/18* of the *POCSO Act* with added *Section 6 of the POCSO Act* read with *Section 14 of the Child Labour Prohibition and Regulation Act*.
3. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.
4. It is pertinent to note that the respondent No. 2 is not represented.
5. The learned Senior Counsel for the petitioner has submitted that vide the order dated 18.12.2023 passed by a Co-Ordinate Bench of this Court, it has been observed that notice issued to respondent No. 2 has been served by the ASI(P) of Tinsukia police station. The order dated 18.12.2023 is not found in the record today.
6. I have carefully gone through the records but the order dated 18.12.2023 is not found in the record. A copy of the order dated 18.12.2023 is made available in connection with this bail application. A copy of the order is submitted by the learned Senior Counsel for the petition, which is a system generated copy from the website of this Court.

7. The copy of this order will also form a part of this record.
8. It is submitted that the trial has not yet commenced against the petitioner who is behind bars since 01.09.2023. 19.01.2024 is fixed for consideration of charges against the petitioner. It is submitted that there are 23 (twenty three) witnesses enlisted in the charge sheet and trial would take a considerable time. The petitioner is 50(fifty) years old. He is a local resident, being an employee under the Office of the Deputy Commissioner. The petitioner is not a flight risk.
9. The learned Additional Public Prosecutor has raised objection against bail petition as the victim is yet to be examined. There is every apprehension that threats may be exercised on the victim and the FIR itself reveals that the victim has been assaulted innumerable times by the petitioner and the co-accused named in the FIR. It is also submitted that the petitioner is not an employee in the Deputy Commissioner's office and is under suspension.
10. The FIR unfolds that the petitioner along with the victim's mother and step brother had subjected the victim to mental and physical abuse and sexual assault.
11. The case diary also reveals that the petitioner has not only molested the victim but he has also molested another minor who is a domestic help in his house.
12. I have given my thoughtful consideration to the submissions at the bar. I have considered the submissions that the petitioner is not a flight risk and the petitioner has pledged to abide by any bail conditions purported to be imposed upon him.
13. It is discernible that the trial will take time to complete as there are 23 (twenty three) witnesses enlisted in the charge sheet. The trial has not yet

commenced. I have considered the submission that the victim is at present under the custody of her maternal uncle and not under the custody of the co-accused named in the FIR.

14. Considering all aspects, petition is allowed.

15. The petitioner is enlarged on bail on furnishing a bail bond of *Rs.50,000/- (Rupees Fifty Thousand)* with a suitable surety of like amount to the satisfaction of learned Additional Sessions Judge cum Special Judge, POCSO, Tinsukia under the conditions:

- (1) *The petitioner shall not go near the vicinity of the victim;*
- (2) *The petitioner shall not exercise threats to the witnesses;*
- (3) *The petitioner shall not tamper with the evidences;*
- (4) *The petitioner shall not leave the jurisdiction of the trial Court without prior permission till completion of the trial,*
- (5) *the petitioner shall cooperate with the trial.*

On breach of any of the bail conditions, bail order shall stand cancelled.

Bail Application stands disposed of in the above terms.

Send back the case diary.

JUDGE

Comparing Assistant