

GAHC010261642023



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

Case No. : Bail Appln./4227/2023

AKAN KALITA
S/O NILAMBAR KALITA
R/OVILL- BECHIMARI
P.S. MANIKPUR
DIST. BONGAIGAON, ASSAM

VERSUS

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

2:XXX
D/O RAJU RAY
R/O VILL- ODLAGURI
P.S. MANIKPUR
DIST. BONGAION
ASSA

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

20.02.2024

Heard Mr. S. Nawaz, learned counsel for the accused and Mr. R.J. Baruah,

learned Addl. P.P. for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, is preferred by accused, namely, **Akan Kalita**, who has been languishing in jail hazoot since **04.05.2023**, in connection with **Manikpur P.S. Case No. 81/2023**, registered under Sections 376-AB IPC, read with section 4 of the POCSO Act, for granting bail.

3. It is worth noting here in this context that the above noted case has been registered on the basis of an FIR lodged by one Raju Ray, on 03.05.2023.

4. The essence of allegations, made in the FIR dated 03.05.2023, is that on 03.05.2023, at about 4.30 pm, accused Akan Kalita had subjected his minor daughter, Smti. X (name withheld), aged 11 years, to sexual harassment by calling her into a room, while she went to his house with her father for treatment of Tonsillitis.

5. It is to be noted here that notice was issued to the informant by post and also by usual process and the notice issued to him by post served upon him by delivering the same to him, as it appears from the note of the Registry dated 12.02.2024. But, he remained unrepresented today.

6. Mr. Nawaz, learned counsel for the accused submits that the accused was arrested on 04.05.2023, and since then he has been languishing in jail hazoot. Mr. Nawaz further submits that in the meantime the learned court below has examined as many as 8 witnesses out of 11 witnesses cited in the charge sheet and that the accused will appear before the learned court below on each and every date and therefore it is contended to allow the petition.

7. Whereas, Mr. R.J. Baruah, the learned Addl. Public Prosecutor, Assam, submits that the learned court below has already examined as many as eight

witnesses and there remains to examine only 3 witnesses and that the witnesses examined have implicated the accused with the offence charged and enlarging the accused on bail at this stage will cause delay in disposal of the case and therefore, it is contended to dismiss the petition.

8. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record as well as scanned copy of the record of learned court below.

9. Here in this case, the record of the learned court below reveals that the victim girl was 12 years old at the material time of occurrence. Also, it appears that the learned court below had already examined 8 witnesses, out of 11 witnesses cited in the charge sheet. The trial is on the verge of completion.

10. In view of the above, and also in view of the evidence, so far brought on record, and further considering 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. Accordingly, the petition stands dismissed.

11. However, the learned court below is directed to complete the trial at an earliest date, without being influenced by any of the observation made herein above.

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

JUDGE

Comparing Assistant