

GAHC010264892023



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

Case No. : AB/3997/2023

HASEN ALI @ MD HASHAN ALI
S/O LT. GAFUR ALI
VILL- PUB MARAGADADHAR
P.O. PAGLAHAT, P.S. TAMARHAT,
DIST. DHUBRI, ASSAM

VERSUS

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

2:KASEM ALI
S/O FOZOR ALI
VILL- SIMLA KANDI
DHUBRI
P.S. AND DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR. M MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 22-01-2024

1. Heard Mr. M. Mondal, learned counsel for the petitioner *Hasen Ali @ Md. Hashan Ali*.

2. The petitioner has filed this application under 438 of the Code of Criminal Procedure with prayer for pre-arrest bail as he has been shown as an absconder in the charge sheet. The petitioner is willing to cooperate with the trial of *Sessions Special Case No. 125/2023 arising out of Azara Police Station Case No. 164/2022 registered under Sections 366 Indian Penal Code, read with Section 4 of Protection of Children from Sexual Offences Act, 2012.*
3. Heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.
4. Notices were issued to respondent No. 2 and the father of the respondent No. 2 has accepted the notice and his signature has been affixed.
5. An additional affidavit relating to service of notice to respondent No. 2 has been submitted by the petitioner. The respondent No. 2 is not represented today.
6. The allegation against the petitioner is that he kidnapped the minor victim and committed sexual assault on her. It is submitted on behalf of the petitioner that the petitioner and the victim had a love relationship and the victim willingly eloped with the petitioner. The statement of the victim under Section 164 of the Code of Criminal Procedure clearly reveals that the victim eloped with him on her own volition. The victim is about 16 (sixteen) years although she is a minor, two years on higher side of a radiological age can be taken into consideration to grant relief to the petitioner.
7. I have considered the submissions at the bar with circumspection. The petitioner is willing to cooperate with the trial. The petitioner is a local resident. The petitioner is also willing to abide by any of the bail conditions to be imposed upon him. The petitioner is hereby directed to appear before the

learned trial Court and apply for bail within fifteen days, which may be considered by the Court as per merits of the case.

Matter stands closed accordingly.

JUDGE

Comparing Assistant