

GAHC010271782023



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

Case No. : Bail Appln./4511/2023

AZIZUR RAHMAN
S/O JALALUDDIN AHMED,
VILL.- GOPIGAON, P.S.- BILASIPARA, DIST.- DHUBRI, ASSAM, PIN- 781366.

VERSUS

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

2:BIRENDRA NATH ROY
ASI OF POLICE
BILASIPARA
P.S.- BILASIPARA
DIST.- DHUBRI.

3:ELINA BEGUM
D/O OMAR ALI
R/O VILL - DIPARKUTI
PS - BILASIPARA
DIST- DHUBRI
ASSAM
PIN - 78334

Advocate for the Petitioner : MR. P DEKA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

29.01.2024

Heard Mr. A. Das, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Azizur Rahman**, who has been languishing in jail hazot in connection with the **Bilasipara P.S. Case No. 415/2023**, under Sections 376[D]/325 of the IPC, read with Section 6 of the POCSO Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by ASI Birendra Nath Roy, on 26.10.2023. The essence of allegations made in the FIR is that on 24.10.2023, at about 6 pm, one Azizur Rahman along with two unknown persons, kidnapped one Smti 'X' [name withheld], aged 17 years, and taken her to a backyard of school and committed rape upon her.

4. Mr. Das, learned counsel for the accused submits that the accused was arrested on 28.10.2023, and since then he has been languishing in jail hazot for last 93 days and till date no charge sheet has been submitted by the IO and as such, he is entitled to default bail.

5. On the other hand Mr. Barua, learned Additional Public Prosecutor while not dispute the submission of Mr. Das, learned counsel for the accused, submits that till date no charge sheet has been submitted by the IO and the case diary is lying with him.

6. Having heard the submissions of learned counsel for both the

parties, I have carefully gone through the records and the documents placed on record.

7. It appears that the accused was arrested on 28.10.2023, and since then he has been languishing in jail hazot for last 93 days and till date no charge sheet has been submitted by the IO. The case has been registered under Sections 376[D]/325 of the IPC, read with Section 6 of the POCSO Act and the mandatory period of detention is 90 days. As such, the accused is entitled to default bail under Section 167[2] Cr.P.C.

8. Accordingly it is provided that on furnishing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the learned **Special Judge, POCSO Act, Bilasipara** the accused be enlarge on bail.

9. In terms of above this BA stands disposed of.

10. The case diary be returned.

Comparing Assistant

JUDGE