

GAHC010275792023



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

Case No. : Bail Appln./4467/2023

NAZIMUDDIN
S/O ABDUL SATTAR
R/O VILL- MODAN MOHAN
P.S. KARIMGANJ
DIST. KARIMGANJ, ASSAM

VERSUS

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

2:NOORBANU NESSA
W/O ABU SUMA
R/O SIJUBARI
NEAR MAZAR
P.S. HATIGAON

GUWAHATI-781038
DIST. KAMRUP (METRO)
ASSA

Advocate for the Petitioner : MR S H SIKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 08-01-2024

- 1.** Heard Mr. S.H. Sikdar, learned counsel for the petitioner Nazimuddin. Also heard Mr. D.P. Goswami, learned Addl. PP for respondent No. 1 and Mr. A.B. Siddique, learned counsel for respondent No. 2.
- 2.** The learned counsel Mr. S.K. Sikdar has submitted an additional affidavit relating to Dasti service of notice against respondent No. 2.
- 3.** The learned counsel for the respondent has raised serious objection against the bail petition.
- 4.** The FIR unfolds that Munna Choudhury took the victim girl to his house to assist as a domestic help. The victim girl used to reside in the house of Munna Choudhury along with other inmates in the house including the present petitioner who is also the driver of the owner Sri Munna Choudhury. It is alleged that on 04.11.2023 at about 5 AM the petitioner went into the victim's room and gagged her by her mouth and committed immoral act on the victim. Meanwhile the Landlady noticed and she slapped the petitioner and drove him out of the house. The next morning the victim's mother – respondent No. 2 herein was informed about the incident. Thereafter the victim also informed her mother about the incident. The informant was contemplating to go to the police station but was stopped by the Landlady. But finally the FIR was lodged.
- 5.** The petitioner Nazimuddin has filed this petition with prayer for bail as he is in jail since 16.11.2023 in connection with Hatigaon P.S. Case No. 366/2023 u/s 376 IPC R/W Section 4 of POCSO Act R/W Section 14 of Child Labour (Prohibition and Regulation) Act, 1986.
- 6.** It is submitted on behalf of the petitioner that the petitioner has no criminal antecedents. A false case has been slammed against him. He has admitted that he was working as a driver. The informant has been demanding Rs. 10,000/- from him which resulted in the altercation between the informant and the present petitioner and

the informant lodged this false case against him. The petitioner being a local resident has pledged to co-operate with the investigation.

7. The learned Addl. P.P. has submitted that there are incriminating materials in the Case Diary against the present petitioner.

8. I have considered the submissions at the Bar with circumspection. I have perused the statement of the witnesses u/s 161 Cr.PC and the statement of the victim u/s 164 Cr.PC. I have also perused the Medico Legal Report. I have considered the submission that the petitioner is a local resident. I have also considered the progress of investigation. It appears that further custodial detention of the petitioner may not be required as investigation has progressed to a considerable extent.

9. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the learned Special Judge, POCSO, Kamrup under the condition that the petitioner shall not exercise threats to witnesses.

On breach of the bail condition, bail order shall stand cancelled.

JUDGE

Comparing Assistant