

GAHC010282772023



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

Case No. : Bail Appln./4532/2023

RAKIBUL ISLAM @ RAKIBUL HOQUE AND ANR
S/O AIJAL HOQUE @ AZIZULHAQUE
R/O VILL- UNNEKURI, P.S. GOBARDHANA
DIST. BAKSA, ASSAM
PIN CODE- 781317

2: AIJAL HOQUE @ AZIZUL HOQUE
S/OLATE ABDUL SALAM
R/O VILL- UNNEKURI
P.S. GOBARDHANA
DIST. BAKSA
ASSAM
PIN CODE- 78131

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

05.01.2024

Heard Mr. A.K. Hussain, learned counsel for the accused persons 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 persons namely, **Rakibul Islam @ Rakibul Hoque and Aijal Hoque @ Azizul Hoque**, who have been languishing in jail hazot since 23.11.2023, in connection with the **Gobardhana P.S. Case No. 179/2023**, under Sections 120[B]/376[n]/313 of the IPC, for granting bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Manija Khatun, on 22.11.2023. The essence of allegations made in the FIR is that her daughter Smti 'X' [name withheld] aged 19 years, had love affairs with one Rakibul islam of Unnekuri Village and he had committed sexual intercourse with her on several occasions and impregnated her and when the matter was reported in his house, he denied the allegation and he had taken her daughter to Doctor and got her pregnancy terminated.

4. Mr. Hussain, learned counsel for the accused persons submits that the accused persons have been languishing in jail hazot for last 43 days. Mr. Hussain further submits that there was love affairs between the accused No. 1 and the victim girl and that the allegations leveled in the FIR are false, in respect of the accused No. 2, who is the father of the accused No. 1 and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient materials in respect of the allegations made in the FIR and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I

have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused persons have been languishing in jail hazot for last 43 days. Further, it appears from the case diary that the I.O. has collected sufficient incriminating materials against the accused No. 1 and therefore, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused No. 1.

8. However, considering the materials collected so far in the case diary and also considering the progress of investigation, this Court is of the view that further custodial detention of the accused No. 2 may not be required, in the interest of investigation.

9. 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 **Chief Judicial Magistrate, Baksa**, the accused No. 2 [**Aijal Hoque @ Azizul Hoque**] be enlarged on bail.

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

11. The case diary be returned.

JUDGE

Comparing Assistant