

GAHC010284912023



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

Case No. : Bail Appln./4577/2023

BIJOY BARMAN @ RAKESH BARMAN @ MONGALU BARMAN
S/O MONMOHAN BARMAN
RO KAILASHPUR, HENGRABARI HILLSIDE, NEAR KRISHNA MANDIR,
P.S. DISPUR
DIST. KAMRUP (M), ASSAM

VERSUS

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

2:RAMEN DEY @ RABEN DEY
S/O SUNIL DEY
C/O TINKU DEY
R/O PURBANCHAL NAGAR
NEAR KRISHNA MANDIR
HENGRABARI
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM
MOBILE NO. 813503027

Advocate for the Petitioner : MR. S M MOLLAH
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

26.02.2024

Heard Mr. S. M. Mollah, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the petitioner, namely, **Bijoy Barman @ Rakesh Barman @ Mongalu Barman**, in connection with **Dispur PS Case No. 1399/2023 registered under Sections 376(3) of IPC read with Section 4 of POCSO Act.**

Case diary as called for is placed before the Court without the DNA report.

It is submitted by the learned counsel for the petitioner that the accused has been detained in custody since 01.12.2023 and has completed 87 days in jail hazot, only three days are left to complete the statutory period. It is also submitted by the learned counsel for the petitioner that in the FIR, the name of the petitioner is not reflected. He further submitted that on 24.07.2023 when the victim was brought before the Magistrate to record her statement, the victim stated that she could not recollect the person who had committed the crime but after four months i.e. on 29.11.2023 when the victim girl was again produced before the Magistrate to record her statement under section 164 Cr.P.C., she implicated the present petitioner with the alleged offence. According to the learned counsel for the petitioner, the petitioner and the victim reside in the same complex prior to the incident and as a result of which, a false case has been instituted against the present petitioner and prays that considering the period of detention bail may be granted.

Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam has submitted that DNA report has not yet been submitted after repeated requests and the name of the petitioner is also not reflected in the FIR. He further submitted that the victim has given contradictory statements before the Magistrate and considering the length of detention, bail may be granted to the petitioner.

After considering the submissions made by the learned counsel for both the parties and also considering the length of detention, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary in the interest of investigation of the case.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with one surety of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Kamrup(M)** subject to the following conditions-

- (i) That the accused petitioner shall cooperate with the Investigating Officer as and when required;
- (ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court; and
- (iii) That the petitioner shall not leave the territorial jurisdiction of the court without his/her prior written permission.

Return the case diary.

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

JUDGE

Comparing Assistant