

GAHC010289812023



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

Case No. : Bail Appln./4662/2023

KHAN MEHDI HASAN
S/O ABDUS SAMAD KHAN
VILL- SATRAKANARA
P.S. BAGHBOR
DIST. BARPETA,
PIN-781308

VERSUS

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

2:DEWAN UDDUS CHOUDHURY
S/O LATE BANDESH ALI DEWAN
VILL- SOKIR VITHA
P.S. BARPETA
DIST. BARPETA
ASSAM
PIN-78135

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 12-02-2024

- 1.** Heard learned Senior Counsel Mr. P.J. Mahanta assisted by learned counsel Mr. A. Roshid for the petitioner.
- 2.** The petitioner, namely, Mr. Khan Mehdi Hasan has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 11.12.2023 in connection with Barpeta P.S. Case No. 571/2023 registered u/s 376/354(c)/506 IPC r/w Section 6 of POCSO Act.
- 3.** Heard Mr. D.P. Goswami, learned Addl. PP, Assam and Mr. B. Choudhury, learned counsel for respondent No. 2.
- 4.** The allegation against the petitioner is that he threatened the victim and induced her who was his student and thereafter he committed sexual assault on the victim. It is also alleged that the petitioner has recorded some obscene videos and he has threatened to upload it in the social media platform.
- 5.** The learned Addl. PP and the learned counsel for the informant has raised serious objection stating that the victim is to appear Higher Secondary Final Exams commencing from 12.02.2024 which will conclude on 13.03.2024. It is submitted that the victim may be mentally disturbed and she will be threatened by the petitioner if the petitioner is enlarged on bail. Serious objection has been raised on behalf of respondent Nos. 1 and 2 that the petitioner has committed a heinous offence and he is not entitled to bail.
- 6.** I have considered the submissions at the Bar with circumspection and I have also perused the Case Diary. The merits of the case is not brought to the fore. I have also considered the length of detention and progress of investigation. It appears that further custodial detention for the progress of investigation may not be required. The petitioner is a local resident and he has pledged to co-operate with the investigation. It is submitted on behalf of the petitioner that he will abide by any stringent bail conditions if imposed upon him and he will not go near the vicinity of the victim.

7. Considering all aspects, 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, Barpeta under the conditions that:-

- i. The petitioner will not go near the vicinity of the victim till the completion of investigation and if charge-sheet is laid till the completion of trial;
- ii. the petitioner shall not exercise threats to the victim; and
- iii. the petitioner shall co-operate with the trial and not influence the witnesses.

On breach of any bail conditions, bail order shall stand cancelled.

JUDGE

Comparing Assistant