



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

Case No. : Bail Appln./6/2024

MR. SENTISHILU
S/O IMTINUNGSHI
41 ASSAM RIFLES, KIPHIRE
KIPHIRE NAGALAND

VERSUS

MR. THRIPOGSE (FATHER OF THE VICTIM) AND ANR
R/O KIPHIRE TOWN
KIPHIRE NAGALAND

2:THE STATE OF NAGALAND
KOHGIMA NAGALAND

Advocate for the Petitioner : TOSHITEMJEN PONGENER

Advocate for the Respondent :

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG
ORDER**

Date : 07-06-2024

Heard Mr. Toshitemjen, learned counsel for the petitioner.
Also heard Mr. Kevi Angami, learned P.P. Nagaland.

2. This is a bail application filed under section 439 Cr.PC
praying for release of the accused person namely Mr. Ajij Pathan @
Pathan Ajij R/No.5019427 who was arrested in connection with

Kiphire Women P.S. Case No.001/23 under section 376(2) (C) (L) (3) IPC r/w 6/10 POSCO Act in correspondence with G.R No.21/2023.s

3. The learned counsel for the petitioner submits that the accused was arrested on 20.6.2023 in connection with the above Women P.S. Case No.001/23 and since then he has been in custody for about 283 days till the time of filing this bail application. It is further submitted that since the case has already been charge-sheeted and is pending before the Special Court POCSO Act, for framing of charge, further detention of the accused is no longer required in this case. The learned counsel for the petitioner also submits that the accused has a chronic liver disease hence, prays for release of the accused on health ground also.

4. Mr. Kevi Angami, learned P.P has produced the scanned copy of the case record and I have perused the same.

5. The record reveals that the case is pending before the trial Court for consideration of charge. However, due to the default on the part of the defense counsel for the accused, the case had to be adjourned on more than one occasion. The learned P.P. while objecting bail to the accused submits that in the instant case, during the investigation period the Assam Rifles had tried to influence the informant and his family to withdraw the FIR and as the informant and his family belonged to poor family, there is every likelihood of prosecution witness including the victim being influenced if the accused is released on bail.

6. The learned P.P. also brought to the notice of this Court the order of the learned trial Court passed on 15.02.2024 wherein the learned trial Court while rejecting the bail application filed by the accused has observed that; *"It is a matter of record that the Assam Ri-*

fls authority has attempted to influence the complainant to withdraw the FIR at the initial stage and there are high chances that in the event of the accused being released on bail there is very likelihood of the victim and other prosecution witnesses being influenced or threatened."

7. It is further submitted that under such circumstances, the accused is not entitled to the privilege of bail. Hence, prays for rejection of the bail application.

8. Heard learned counsel for the parties. Considering the gravity of offence alleged against the accused and the prima facie materials found against the accused on record and also in view of the fact that the Assam Rifles authority had admittedly attempted to influence the informant to withdraw the FIR, there is every likelihood that the accused might influence the prosecution witness including the victim, if he is released on bail. Under the circumstances, I am of the considered view that in such case, it is of prime importance that the interest of the victim is being protected so as to ensure that she gives her evidence before the Court freely and fearlessly without being influenced from any corner. Such protection to the minor victim is necessary at least till her evidence is recorded by the trial Court.

9. For the reason and observation made above, I am not inclined to grant bail to the accused at this stage. Accordingly, this bail application stands rejected.

**Sd/-
JUDGE**

Comparing Assistant