GAHC010158092020

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

Case No. : Bail Appln./2394/2020

MD. ABU SAMA @ ABU SAMAD
S/O LATE AHED ALI, R/O VILL-PADUGURI, P.S.-DALGOAN, DIST-DARRANG, ASSAM, PIN-784514

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. ABU JAHID

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

01.12.2020

Heard Mr. Abu Jahin, learned counsel for the accused-petitioner and Mr. N.K. Kalita, learned Addl. PP for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Md. Abu Sama @ Abu Samad,** has prayed to release him on bail, in connection with **Special (POCSO) Case No. 21/2020 (Corresponding to Udalguri P.S. Case No. 161/2020)** under Sections

448/354B of the IPC read with Section 12 of the POCSO Act.

The case diary, as called for, is placed before the Court.

Mr. A. Jahid, learned counsel for the accused-petitioner submits that the accused-petitioner has been in custody since he was arrested on 21.07.2020, that is for 134 days. Mr. Jahid further submits that although the investigation is completed and charge-sheet being Udalguri P.S. C.S. No. 99/2020, dated 29.08.2020 is submitted to the Court of learned Special Judge, the charges have not been framed till date and as such, considering the length of detention, his bail application may be considered.

Mr. N.K. Kalita, learned Addl. PP., submits that the case is of serious nature and as the charge-sheet has already been filed against the accused-petitioner and as the charges are yet to be framed, and the victim girl, who is a material witness in the case is yet to be examined, it will not be safe to enlarge the accused on bail.

On consideration of the above submissions made by learned counsel for both sides and perusal of the record of the Special (POCSO) Case No. 21/2020, this Court is of the opinion that if the liberty of bail is granted to the accused-petitioner it may cause hindrance in the speedy trial of the case if charges are framed.

In view of the above, it is provided that learned Special Judge (POCSO), Udalguri shall consider framing of the charges against the accused-petitioner as charge-sheet has already been filed, without further delay and record the evidence of the material witnesses in the case as expeditiously as possible and will also consider bail application of the accused-petitioner, if filed in accordance with law.

Accordingly, the bail application stands rejected.

Return the case diary.

JUDGE

Comparing Assistant