GAHC010173912020

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

Case No. : Bail Appln./2789/2020

MD. MUJAKIR ALOM @ MOJAKKIR ALOM
S/O MD. FOIJUL ISLAM @ MD. FAJLUL HOQUE, VILL-BORBIL ISLAMPUR,
P.S.-KACHUA, DIST-NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

15.12.2020

Heard Mr. M.A. Sheikh, learned counsel for the applicant/ appellant. Also heard Mr. N.K. Kalita, learned Addl. P.P. appearing for the State.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Md. Mujakir Alom @ Mojakkir Alom** has prayed to release him on bail in connection with **Kachua PS Case No. 146/2020** under Sections 376AB/511 of the IPC read with Section 8 of the POCSO Act.

The scanned copy of the case record along with the case diary, as called for are placed before the Court.

Mr. M.A. Sheikh, learned counsel for the accused/ petitioner, submits that the accused has been behind the bar for 89 days since 18.09.2020 despite being innocent. Mr. Sheikh further submits that the victim minor girl is presently in the custody of her parents. Mr. Sheikh also submits that no incident as narrated in the F.I.R. which was filed after 4 days had never taken place.

Mr. N.K. Kalita, learned Addl. Public Prosecutor, Assam submits that the victim girl is aged about 9 years and she in her statements u/s 161 and 164 Cr.P.C. has implicated the accused. Mr. Kalita further submits that after completion of investigation, the case is charge-sheeted against the accused and the case being pending at the stage of copy and consideration of charges, it may not be safe in the interest of a fair trial to enlarge him on bail.

The allegation relates to an attempt by the accused to rape the informant's minor daughter, aged about 9 years, at his home after disrobing.

On scrutiny of the case record along with the case diary, it appears that there is sufficient incriminating material against the accused. As the investigation is completed with the filing of the charge-sheet and the case is pending for copy and consideration of charges by the learned Special Judge (POCSO Act), Nagaon and further, the victim is yet to be examined in the case, the bail prayer of the accused cannot be accepted.

Accordingly, the bail application stands dismissed.

This disposes of the bail application.

JUDGE

Comparing Assistant