GAHC010188022020

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

Case No. : Bail Appln./2989/2020

ABJARUL HAQUE @ ABJALUR RAHMAN
S/O MD. IMAN ALI, R/O SIBASATHAN PAGHALI, P.S.-SAMAGURI, DIST-NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

22.12.2020

Heard Mr. S.M. Abdulla P., learned counsel for the accused-petitioner and Ms. S.H. Borah, learned Addl. PP Assam for the State/respondent. Also heard Mr. S.H. Sikdar, learned counsel appearing for the respondent No. 2/ informant.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Abjarul Haque @ Abjalur Rahman** has prayed to release him on bail, in connection with **Uluani P.S. Case No. 100/2020** under Section 365 of the IPC.

Mr. S.M. Abdulla P., learned counsel for the accused-petitioner, submits that the accused has been in judicial custody for 39 days despite being innocent. Mr. Abdulla P further submits that the victim is stated to be minor being aged about 17 years 6 months in the FIR although she is aged more than 18 years. It is also submitted that the case is the result of misunderstanding between the parties and in this regard the informant, who is mother of the victim, has sworn an affidavit on 03.12.2020. Therefore, it is submitted that the accused may be directed to be released on bail subject to any condition (s).

Ms. S.H. Borah, learned Addl. PP submits that the alleged offence is non-bailable.

Mr. S.H. Sikdar, learned counsel for the informant, mother of the victim girl, fairly concurs with the submission of the learned counsel for the accused petitioner. Mr. Sikdar also submits that it is desirable in the interest of maintaining cordial relation between the parties that the bail application may be accepted.

The FIR reveals the allegation that on 09.09.2020 at around 7.00 a.m., while the informant's daughter went to Ambagan for her tuition and from there one Afjal Ali has forcefully kidnapped her daughter and kept her in an unknown place. After searching her, they came to know that she was moving towards Majuli village under Rupahi PS, then they informed the police about the same and apprehended them and brought them to police station.

On perusal of the averments made in the bail application and the relevant documents annexed therewith, it appears that the accused is aged about 19 years while the victim is aged about 17 years 6 months and they have been in close relationship. The informant by an affidavit, dated 03.12.2020, (taken on record) has attributed the incident to apparent misunderstanding between the parties. Further, the accused has been in judicial custody for 39 days since 14.11.2020. Therefore, this Court is of the view that if the liberty of bail is granted to the accused-petitioner, the ongoing investigation into the case is unlikely to be adversely affected.

Accordingly, it is directed that the accused-petitioner named above, shall be released on bail of **Rs. 20,000/-** (Rupees Twenty Thousand) only, with one surety of the like amount to the satisfaction of the learned

SDJM, Kaliabor, Nagaon subject, of course, to the following conditions:

1. That the accused-petitioner shall co-operate in the investigation as and when required;
2. 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 either to the Court or to any police officer;
3. That the accused-petitioner shall not hamper or tamper with the investigation in any manner; and
4. That the accused-petitioner shall not commit any similar offence of which he is suspected of commission.

This disposes off the bail application.

JUDGE

Comparing Assistant