GAHC010176752026

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

Case No. : Bail Appln./2406/2026

RAJENDRA THAKUR AND ANR
S/O LT MAHABIR THAKUR
R/O WARD NO. 4 GAMHARIA, DIST BEGUSARAI, BIHAR

2: GAJENDRA RAJ
S/O LT RAMPRIT MAHATA
R/O GRAMPUR TILAK
P S JANKINAGAR
DIST PURNIA BIHA

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:DIGANTA DUTTA
S/O SRI PURNA DUTTA
R/O VILL NAMTI BARAHIBARI GAYANGAON
P.S. HALOWATING DIST SIVASAGAR
ASSA

Advocate for the Petitioner : MR. A AHMED, MISS. P M AHMED,MS. F B CHOUDHURY,U U KHAN,MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 16.11.2026

Heard Mr. A Ahmed, learned counsel appearing for the petitioners. Also heard Mr. Bhaskar Sharma, learned Additional Public Prosecutor, Assam.

This is an application under Section 483 of the BNSS, 2023 whereby the petitioners Rajendra Thakur and Gajendra Raj, who are facing trial in the Special POCSO Case No. 44/2024 pending in the Court of the learned Special Judge (POCSO), Sivasagar have prayed for releasing them on bail.

The petitioners are facing trial for allegedly committing offences including the offences under Secion 6/17/18 of the POCSO Act. All the prosecution witnesses have been examined except the Investigating Officer.

Mr. Ahmed has submitted that the case is pending for one year for examination of the Investigating Officer. Referring the Section 35 of the POCSO Act, Mr. Ahmed has submitted that since the victim has already examined the petitioners do not deserve to be detained in custody.

Mr. Ahmed has relied upon a judgment of the Hon'ble Meghalaya High Court that was delivered in Edmerald G.Momin vs. State of Meghalaya, reported in 2026 SCC Online, Megh 738. Paragraph 8 of the said judgement is quoted as under:

> "In view of what has been submitted by the learned counsel for the petitioner as far as the progress of the trial is concerned, this court or the trial court for that matter, cannot lose sight of the relevance of the provision of Section 35 of the POCSO Act, which prescribed that trial in POCSO cases, as far as possible, must be concluded within 1 (one) year from the date of taking cognizance of the offence".

I have considered the submissions made by the learned counsel for both the sides.

Waiting for the Investigating Officer in this case for one year amounts to prolonged

incarceration without trial. The victim has already been examined and discharged after cross examination. This court is of the opinion that the petitioner is no longer deserve to be detained in custody at this stage. Hence, the bail application of the petitioners is allowed.

In view of the above, the petitioners Rajendra Thakur and Gajendra Raj, who are facing trial in the Special POCSO Case No. 44/2024, pending in the Court of the learned Special Judge (POCSO), Sivasagar shall be released on bail of Rs.50,000/- each with one surety each of like amount to the satisfaction of the learned Special Judge (POCSO), Sivasagar.

Both the petitioners shall regularly appear before the trial court on each and every date of hearing. If they fail to do so, the trial court shall have the liberty to procure their attendance by due process of law.

The bail application is disposed of accordingly.

JUDGE

Comparing Assistant