GAHC010178752026

2026:GAU-AS:15161

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

Case No. : Bail Appln./2465/2026

ASAD ALI
S/O NAJRUL HOQUE, R/O SIBAPUR, P.S. UDALGURI, DISTRICT-BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:SADEK ALI
S/O SAHEB ALI
VILL- KHORDORA PATHAR
P.S. BARPETA
DIST. BARPETA
ASSAM

Advocate for the Petitioner : MR. R ALI, Z R MANDAL,MR H A AHMED

Advocate for the Respondent : PP, ASSAM, MR M Z SHAH(R2)

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.10.2026

Heard Mr. H.A. Ahmed, learned counsel for the accused. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State

respondent No.1 and Mr. M.Z. Shah, learned counsel for the respondent No.2.

2. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is preferred by the accused, namely, Ashad Ali, who has been languishing in jail hazot since 24.07.2026, in connection with Dispur P.S. Case No.538/2026, under Section 127(2)/65(1) of Bharatiya Nyaya Sanhita (BNS), 2023, read with Section 4 of the POCSO Act, for grant of bail.

3. Notably, the above noted case has been registered on the basis of one FIR lodged by one Raham Ali (actual name withheld), on 22.07.2026. The essence of allegation, made in the FIR, dated 22.07.2026, is that on 21.07.2026 his daughter, namely, Smt. X, aged 13 years, went missing from his house and despite best effort, he could not find her out and on 22.07.2026, at around 11:00 a.m., she returned home and told him that one boy, namely, Ashad Ali had wrongfully confined her in his room and committed sexual intercourse with her.

4. Mr. Ahmed, learned counsel for the accused submits that the accused is innocent and no way involved with the offence alleged in the FIR and that the accused was produced before the learned Magistrate beyond 24 hours and he was arrested on 23.07.2026, at about 10:00 a.m. and produced before the Court on 24.07.2026 and as such, the accused is entitled to bail and he is also ready to cooperate with the investigating agency and therefore, it is contended to allow this application.

5. Per contra, Mr. B. Sarma, learned Additional P.P. has opposed the petition. He submits that after completion of investigation, the I.O. has laid charge-sheet against the present accused to stand trial under Section 127(2)/65(1) BNS, read with Section 4 of the POCSO Act and that the victim girl in her statement, recorded under Section 183 of BNSS, has clearly implicated the accused with the offence alleged in the FIR and the offence is serious in nature and the material witnesses are yet to be examined and if the accused is enlarged on bail at this stage, there is every possibility of influencing the witnesses under threat and coercion, and under such circumstances,

he has contended to dismiss the petition.

6. Mr. Shah, learned counsel for the respondent No.2 also submits that the informant has no objection in the event of releasing the accused on bail.

7. Having heard the submission of learned counsel for both the parties, this Court has carefully gone through the petition and the documents placed on record and also perused the scanned copy of the record.

8. It appears that after completion of investigation, the I.O. has already submitted charge-sheet to stand trial under Section 127(2)/65(1) BNS and Section 4 of the POCSO Act having found prima facie case against him. Further, from a perusal of the statement of the victim girl recorded under Section 183 BNSS, 2023, it appears that she has clearly implicated the accused with the offence alleged in the FIR. The offence is serious in nature, and material witnesses are yet to be examined. And the possibility of influencing the witnesses cannot be ruled out. Therefore, this Court is of the view that this is not a fit case, where the privilege of bail can be granted to the accused and accordingly, the bail apsplication stands dismissed.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant