GAHC010183892026

2026:GAU-AS:15519

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

Case No. : Bail Appln./2532/2026

SRI KUSHAL DEKA
S/O. AMULYA DEK, R/O. HOUSE NO. 5, NATH VILLA, RUPALI PATH, LNB ROAD, P.S. HATIGAON, DISTRICT KAMRUP M, ASSAM. PERMANENT RESIDENT OF VILLAGE BHEHGURI, P.S. KALAIGAON, DISTRICT UDALGURI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM.

2:NIKITA BAISHYA
D/O. SRI TARANI BAISHYA
R/O. HOUSE NO. 54
SWEET LAND PATH
CHANEKI PATH
BAGHARBARI
P.S. SATGAON
GUWAHAT - 781037 DISTRICT KAMRUP (M)
ASSAM

Advocate for the Petitioner : MD. I HUSSAIN, MS. S. CHANDA

Advocate for the Respondent : PP, ASSAM, MS. D GHOSH (LEGAL AID COUNSEL FOR R-2)

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 13.10.2026

Heard Mr. Md. I. Hussain, learned counsel, appearing on behalf of the accused-applicant. Also heard Mr. K.K. Parasar, learned Addl. P.P., representing the State respondent and Ms. D. Ghosh, learned counsel for the respondent no. 2.

2. This is an application filed under Section 483 of the BNSS, 2023, praying for grant of bail to the accused-applicant in connection with Sessions (Spl.) Case No. 93/2025, registered under Sections 65(1)/77/351(2) of BNS, 2023, read with Section 6/17 of POCSO Act, corresponding to Hatigaon P.S. Case No. 51/2026, pending before the court of learned Addl. Sessions Judge-cum-Special Judge (POCSO), Kamrup (M), Guwahati.

3. An FIR was lodged on 19.03.2026 by the informant before the Officer-in-Charge, Hatigaon Police Station, alleging that the accused person, namely, Rishi Baishya, contacted the informant via Instagram sometime in the month of April, 2024, and after interacting with him, their relationship grew. It is alleged that on 02.01.2025, they met in person for the first time, and the accused person took her to Sugar Rose Homestay at Hatigaon. It is alleged that in spite of her categorical refusal for any kind of intimate relationship, the accused person had sexual intercourse with her on the false promise of marriage. It is stated that she was 15 years of age at that point of time. It is further alleged that throughout their relationship, the accused person sexually exploited her on multiple occasions. It is also alleged that she has been physically assaulted by the accused person on some occasions.

4. On receipt of the FIR, police registered Hatigaon P.S. Case No. 51/2026, under

the aforementioned Sections.

5. The learned counsel for the accused-applicant submits that neither the accused-applicant is named in the FIR nor there is any allegation against him in the instant FIR. He submits that the accused-applicant was the Manager at the said Homestay at that point of time when the alleged offence occurred. He submits that though Section 17 of the POCSO Act has been invoked against him in the instant case, the same is not applicable in the instant case as can be seen from the FIR itself. He submits that there may be certain negligence or default in his duties as a Manager, as he did not verify the age of the victim as well as the accused person while allowing the couple to stay or spend time in the Homestay. He submits that the accused-applicant is behind bars for the last 146 days, and there is no *mens rea* on his part to abet any crime in the instant case. He therefore, submits that taking into account the aforesaid and the long detention, the accused-applicant should be granted bail at this stage.

6. On the other hand, Mr. Parasar, learned Addl. PP, opposes the prayer of bail, stating that without any verification, the accused-applicant had allowed the minor girl and the accused person to spend time in the Homestay. He further submits that since the victim girl is yet to be examined before the Trial Court, at this stage, the prayer of bail of the accused-applicant should not be allowed.

7. Ms. Ghosh, learned counsel for the respondent no. 2 also opposes the prayer of bail of the accused-applicant, submitting that the victim girl is yet to be examined and the victim girl may be influenced by the accused person in the instant case, if he is release on bail.

8. This court has considered the submissions made by counsel appearing for the respective parties, as well as perused the Case Diary.

9. Taking into account the fact that the accused-applicant is only the Manager of the homestay wherein the main accused person, along with the informant, spent time together, and also taking note of the fact that the accused-applicant is behind bars for 146 days, this Court is of the considered opinion that the accused-applicant should be released on bail in this case. Accordingly, it is directed that the accused-applicant should be released on bail immediately on furnishing of a bail bond of Rs. 30,000/- (Thirty Thousand only) with a surety of like nature to the satisfaction of the learned Special Judge, POCSO, Kamrup, (Metro), subject to the following conditions: -

(1) That the accused-applicant shall appear before the Trial Court as and when required;

(2) That the accused-applicant shall not try to get in touch with the informant or victim on any ground whatsoever;

(3) That the accused-applicant shall not directly or indirectly, induce, threaten or influence any witness, or tamper with the evidence of the case.

10. In terms of the above directions, the instant bail application is disposed of as allowed.

JUDGE

Miriam Degu
(SPA)