GAHC010188972026

2026:GAU-AS:15029

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

Case No. : Bail Appln./2560/2026

JIYABUR ALI AND ANR
S/O MIR ALI, R/O NO. 2 KUMOLIA, P.O. PANIBHARAL, PIN-784176, P.S. BISWANATH CHARIALI, DISTRICT BISWANATH, ASSAM.

2: SAIFUL ISLAM @ SAIFUL ALI
S/O ALI AHMED
R/O CHALIA CHAPORI
P.O. PANIBHARAL
PIN-784176
P.S. BISWANATH CHARIALI
DISTRICT BISWANATH
ASSAM

VERSUS

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

2:MD JAYNAL ABEDIN
S/O LATE SURUJ ALI
R/O CHALIA CHAPORI
P.O. PANIBHARAL
PIN-784176
P.S. BISWANATH CHARIALI
DISTRICT BISWANATH
ASSAM

Advocate for the Petitioner : MR. P BORDOLOI, R BORAH

Advocate for the Respondent : PP, ASSAM, MR. M ALAM(R2)

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 07-10-2026

Heard Mr. P. Bordoloi, the learned counsel appearing for the accused applicants. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State and Mr. M. Alam, learned counsel appearing for the informant/respondent No. 2.

2. This is an application under Section 483 of the BNSS, 2023, praying for grant of bail to the accused applicants, who were arrested on 27.05.2026, in connection with Special (POCSO) Case No. 14/2026, arising out of Biswanath Chariali P.S. Case No. 107/2026, under Sections 140(3)/70(2) of the BNS, 2023 read with Section 6 of the POCSO Act, 2012.

3. An FIR was lodged on 25.02.2026 before the Officer-in-Charge, Biswanath Chariali Police Station, by the informant alleging, *inter alia*, that during the daytime on Saturday, i.e., 23.05.2026, his minor daughter, aged about 16 years, went missing from home and despite extensive searches and inquiries, she could not be traced. It is alleged that, on the morning of 25.05.2026, the informant came to know that his daughter had been taken to Biswanath Chariali Police Station and upon being questioned, she stated that the accused applicants, along with some other persons, had together gang raped her. It is further alleged that the villagers of Kumolia Village rescued her and took her to the police station.

4. On receipt of the FIR, the police registered the Biswanath Chariali P.S. Case No. 107/2026 under the aforementioned sections.

5. Mr. Bordoloi, learned counsel for the accused applicants, submits that the accused applicants have been in custody for the last 120 days and that the trial is yet to commence, as some of the co-accused persons are absconding. He further submits that, as per the Charge-Sheet filed on 25.07.2026, there are 15 witnesses who are yet to be examined in the instant case. He submits that, as per the medical report, no case of rape is made out in the instant case. He further submits that, since the trial is likely to take considerable time, the accused applicants may be granted the privilege of bail at this stage.

6. On the other hand, Mr. Parasar, learned Additional Public Prosecutor for the State, submits that, although two persons are absconding, the trial can still proceed against the present accused applicants. He further submits that, in the instant case, the Charge-Sheet was filed on 25.07.2026 and there has been no delay either in the investigation or in the commencement of the trial.

7. Mr. Alam, learned counsel for the informant/respondent No. 2, also supports the submissions advanced by the learned Additional Public Prosecutor and opposes the prayer for bail made by the accused applicants.

8. The Trial Court Record in the instant case has been received and this Court has carefully perused the same. This Court has also considered the submissions advanced by the learned counsel appearing for the respective parties.

9. Upon consideration of the fact that the incident occurred on 23.05.2026, the FIR was lodged on 25.05.2026 and subsequently, the Charge-Sheet was filed on 25.07.2026, it is apparent that there was no undue delay in the investigation. However, the trial is still pending and none of the witnesses have been examined as yet.

10. Having regard to the stage of the trial as well as the materials available in

the Trial Court Record, including the allegations regarding the involvement of the accused applicants in the alleged offence, as reflected in the FIR and considering the fact that the statement of the victim as well as the witnesses are yet to be recorded, this Court is not inclined to grant any relief to the accused applicants at this stage.

11. Accordingly, the instant bail application stands rejected.

12. Send back the Trial Court Record.

JUDGE

Comparing Assistant