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2026:GAU-AS:15162

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

Case No. : Bail Appln./2688/2026

CHATNATH SARMAH ALIAS CHAT NATH SARMAH
S/O LATE MEGHRAJ SARMAH, VILLAGE NO. 2 DAKHIN RUPOHI, P.S. BOGINODI, DISTRICT LAKHIMPUR, ASSAM

VERSUS

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

2:KRISHNA DEVI DAS
W/O DILIP DAS
R/O NO. 2 DAKHIN RUPOHI
P.S. BOGINODI
PIN-787032
DISTRICT LAKHIMPUR
ASSAM

Advocate for the Petitioner : MS. S G BARUAH, MS C SAIKIA,MR. B BORGOHAIN,MR B SAIKIA,MR. S NEOG

Advocate for the Respondent : PP, ASSAM, MS A HUSSAIN, Amicus Curiae, R2

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.10.2026

Heard Ms. S.G. Baruah, learned counsel for the accused; Mr. B. Sarma, learned Additional Public Prosecutor for the State, being respondent No. 1 and Ms. A. Hussain, learned Amicus Curiae for the respondent No. 2.

2. This application, under Section 483 of the BNSS, is preferred by accused, namely, **Chatnath Sarmah @ Chat Nath Sarmah**, who has been languishing in jail hazot in connection with **Special (POCSO) Case No. 57/2026**, under Sections 74/75(2) of the BNS, read with Section 8 of the POCSO Act, pending before the learned Special Judge (POCSO), Lakhimpur at North Lakhimpur, for grant of bail.

3. It is to be noted here that aforementioned case has been registered on the basis of one FIR, lodged by one Jutshna Das (actual name withheld), on 29.04.2026.

3.1. The essence of allegation made in the FIR, dated 29.04.2026, is that on 28.04.2026, her two daughters went to their maternal uncle's house and there, after taking dinner, her elder daughter slept with her grandmother and her younger daughter slept in another room and then, her younger daughter was sexually assaulted by one Chatnath Sarmah.

4. Ms. Baruah, learned counsel for the accused, submits that the accused was arrested on 29.04.2026 and since then, he has been languishing in jail hazot for last 162 days. She further submits that the victim and the informant have already been examined and both of them turned hostile. She also submits

that the accused is ready to face the trial and will appear before the learned trial court on each and every date. Under such circumstances, Ms. Baruah has contended to allow the petition.

5. Per-contra, Mr. Sarma, learned Additional Public Prosecutor, has opposed the petition on the ground that though the informant and the victim turned hostile, yet they were cross-examined by the prosecution side and that some of the witnesses are yet to be examined. He further submits that the accused is a relative of the victim and the informant and as such, the possibility of influencing the witnesses cannot be ruled out and therefore, it is contended to dismiss the petition.

6. On the other hand, Ms. Hussain, learned Amicus Curiae for the respondent No. 2, has subscribed the submission of Mr. Sarma, learned Additional Public Prosecutor and objected in releasing the accused on bail.

7. Having heard the submissions of learned Advocates of both sides, this Court has carefully gone through the petition as well as the documents placed on record and also perused the scanned copy of the record received from the learned trial court.

8. It is not in dispute that the victim and the informant turned hostile. It is also in dispute that some of the witnesses are yet to be examined. Further, it appears that the accused was arrested on 29.04.2026 and since then, he has been languishing in jail hazot for last 162 days.

9. Since the material witnesses have already been examined and they have not supported the prosecution case and since the accused is behind the bar for 162 days, this Court is of the view that his further custodial detention may not be warranted.

10. Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- only, with one surety of like amount to the satisfaction of the learned **Special Judge (POCSO), Lakhimpur at North Lakhimpur**, the accused be enlarged on bail, however, subject to the condition that he shall appear before the learned trial court on each and every date.

11. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant