GAHC010223742026

2026:GAU-AS:16379

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

**Case No. : Bail Appln./3216/2026**

MD SIRAJUL HOQUE @ SIRAJUL ISLAM
S/0. LATE SULTAN ALI, R/O. VILLAGE NO. 2 AHMEDPUR P.S. BIHPURIA,
DISTRICT LAKHIMPUR, ASSAM

VERSUS

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

2:MUSTT ROHIMA BEGUM
W/O. SOIDUR RAHMAN
R/O. VILLAGE DOULATPUR
P.S. BIHPURIA
DISTRICT LAKHIMPUR
ASSA

**Advocate for the Petitioner** : MR. B CHOWDHURY,

**Advocate for the Respondent** : PP, ASSAM, MR. F A HASSAN(R2)

**BEFORE**
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**Date : 06.11.2026**

Heard Mr. B. Chowdhury, learned counsel for the accused and Mr. R.J. Baruah, learned Additional Public Prosecutor for the State respondent No. 1;

and Mr. F. Hassan, learned counsel for the respondent No. 2.

2. This application, under Section 483, BNSS is preferred by accused, namely, Md Sirajul Hoque @ Sirajul Islam, who has been languishing in jail hazot in connection with Special POCSO Case No. 67/2026, under Sections 64(2)(f)/64(2)(m)/65(1)/351(3) of the BNS, r/w Section 6 of POCSO Act, pending before the Court of learned Special Judge, POCSO, Lakhimpur, in connection with Bihpuria Police Station Case No. 75/2026, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Romicha Begum (actual name withheld) of village Doulatpur, under Bihpuria P.S., on 20.05.2026.

3.1. The essence of allegation in the FIR dated 20.05.2026, is that about 9 months back, one Sirajul Islam, having found the younger sister of the informant alone in her house, compelled her to consume liquor and thereafter, committed sexual intercourse with her for about 8/9 days, and now, she has been carrying pregnancy of 9 months.

4. Mr. Chowdhury, learned counsel for the accused, submits that the accused has been languishing in jail for the last 169 days, and that in the meantime, investigation has been completed and the charge-sheet has been submitted. Mr. Chowdhury also submits that after framing charges, two prosecution witnesses (the informant and the victim) have been examined, and the victim has not supported the prosecution case and has been declared hostile. Mr. Chowdhury further submits that the accused will face trial and will appear before the learned trial Court on each and every date, and therefore, it is contended to allow the petition.

5. Per contra, Mr. Baruah, learned Additional Public Prosecutor, has opposed

the petition on the ground that though the informant has been declared hostile and cross-examined by the prosecution side, she has admitted the facts stated before the I.O., under Section 180 and also before the Magistrate, under Section 183 of the BNSS, 2023. Mr. Baruah further submits that out of 11 witnesses cited in the charge-sheet, only two have been examined so far, and if the accused is enlarged on bail at this stage, it will hamper the investigation; and therefore, Mr. Baruah has contended to dismiss the petition.

6. On the other hand, Mr. Hassan, learned counsel for respondent No. 2, submits that he has no objection in the event of enlarging the accused on bail at this stage.

7. Having heard the submissions 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 received from the learned trial Court.

8. Though Mr. Chowdhury, learned counsel for the accused, has pointed out that the victim has not been supporting the prosecution case and has been declared hostile and also cross-examined by the prosecution side, yet, having perused the statement of the victim under Sections 180 and 183 of the BNSS, 2023, and also the cross-examination by the prosecution side, it cannot be said that no prima facie case against the present accused is made out at this stage. It is well-settled that while considering the bail application, the Court has to consider only the prima facie case.

9. Further, the offenses are grievous in nature, and out of 11 witnesses cited in the charge-sheet, only two have been examined. If at this stage the accused is enlarged on bail, the possibility of fleeing away from justice and influencing

the witnesses, who are yet to be examined, cannot be ruled out.

10. Under the given facts and circumstances, 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 same stands dismissed.

**JUDGE**

**Comparing Assistant**