

GAHC010073202019



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

Case No. : Bail Appln. 789/2019

1:SHYAMAL DEV @ SHYAMAL RANJAN DEB
S/O- LATE SUDHYANA RANJAN DEV, R/O- PASCHIM MASAULI, P.S-
KUMARGHAT, DIST- UNUKUTI, STATE TRIPURA

VERSUS

1:THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T DEORI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 30-04-2019

Heard Ms. RS Deuri, learned counsel appearing for the accused-petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, ***Shri Shyamal Dev @ Shyamal Ranjan Deb***, has prayed for granting bail in connection with ***Basistha P.S. Case No. 203/2019*** under Sections 366A/328 of the IPC, read with Section 12 of the Protection of Children from Sexual Offences Act, 2012.

The case diary, as called for, is placed before the court.

Ms. RS Deuri, learned counsel for the petitioner, submits that the accused has been in jail custody for the last 79 (seventy nine) days since 11.02.2019 and as such, in the meantime, the investigation might have substantially progressed.

Mr. B Sarma, learned Additional Public Prosecutor, Assam submits that the alleged victim girl in her statement recorded under Section 164 of the Cr.PC has implicated the accused with the alleged offences and her aforesaid statement has been corroborated circumstantially by the other witnesses. Mr. Sarma further submits that the victim had undergone treatment at Health City Hospital, Guwahati for 2 (two) days and she was discharged on 12.02.2019 against medical advice.

The FIR, dated 11.02.2019, lodged before the Officer-In-Charge of Basistha Police Station reveals that the allegation is of sexual assault by administering some poisonous substance to the victim girl who was aged about 15 (fifteen) years.

Scrutiny of the case diary reveals that the accused was caught red-handed and the victim was recovered in intoxicated condition near a school. It further reveals that there is prima facie evidence to show that the accused sexually assaulted the victim girl. The accused has been in jail custody since he was remanded on 11.02.2019. Thus, there is abundance of *prima facie* incriminating materials against the accused-petitioner. However, considering the length of detention and substantial progress of investigation, this court finds that if the liberty of bail is granted to the accused-petitioner, further investigation in the case is unlikely to be adversely effected.

Accordingly, it is directed that the accused, namely, **Shri Shyamal Dev @ Shyamal Ranjan Deb**, shall be released on bail of **Rs. 25,000/-** with one local suitable surety of the like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup (Metro), Guwahati** subject, of course, to the following conditions:

1. That the accused shall co-operate in the investigation, as and when required; and
2. That the accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him from disclosing such facts either to the Court or to any police officer

Return the case diary.

With the above directions, this bail application stands disposed of.

JUDGE

Comparing Assistant