

GAHC010169952023



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

Case No. : Bail Appln./2787/2023

BARASHA SAIKIA AND ANR.
D/O ANIL SAIKIA
R/O RANGAMATI CHEWNI GAON DERGAON, GOLAGHAT.

2: AROTI SAIKIA
W/O ANIL SAIKIA
R/O RANGAMATI CHEWNI GAON
DERGAON GOLAGHAT

VERSUS

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

2:TUKUMONI SAIKIA
W/O NABAJIT SAIKIA
R/O RANGAMATI CHEWNI GAON
DERGAON GOLAGHA

Advocate for the Petitioner : MR B P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 31.08.2023

Heard Mr. B. P. Borah, learned counsel appearing for the accused petitioners as well as Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Barasha Saikia, 2. Aroti Saikia**, have prayed for grant of bail in connection with **Dergaon P.S. Case No. 105/2023** under Sections **120B/109/376/509** of the IPC r/w Sections **4/8/14/17** of the POCSO Act.

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

The accused petitioners have been in judicial custody since 03.07.2023, i.e. for 59 days.

The FIR reveals the allegation of physical relationship between the informant's daughter and one Rinku Borah on instigation of the present petitioners and, thereafter, their intimate video was recorded by the petitioner No. 1, which was made viral in social media.

On perusal of the case diary, it appears that there is *prima facie* incriminating material against the accused petitioners, subject, of course, to final outcome in investigation.

However, upon consideration of the facts and circumstances, as emerged from the case diary, including the statements recorded u/s 161 and 164 Cr.P.C., and also considering the length of detention in judicial custody, this Court is of the considered opinion that further continuation of detention of the accused petitioners, who are women, in the interest of investigation is not warranted.

Accordingly, it is provided that the accused petitioners, named above, shall be released on bail of **Rs. 40,000/-each** with one surety of like amount to the satisfaction of the **learned Special Judge (POCSO Act), Golaghat** subject to the following conditions-

- i) That the accused petitioners shall cooperate with the Investigating Officer as and when required; and

- ii) That the accused petitioners 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 to the Police Officer or the Court.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant