

GAHC010211002023



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

**Case No. : Bail Appln./3339/2023**

AJGAR ALI  
S/O KALIMUDDIN  
R/O VILL- PUB SAFAKAMAR  
P.S. GOBARDHANA  
DIST. BAKSA, BTAD, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. R ALI**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**29.09.2023**

Heard Mr. R. Ali, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Ajgar Ali, who has been detained behind the bars since 08.09.2023(since last 22 days) in connection with Satgaon P.S. Case No. 164/2023 under Sections 363/368 of the Indian Penal Code.

The gist of accusation against the present petitioner is that on 06.09.2023, one Saifur Rahman lodged an FIR before the Officer-In-Charge of Satgaon Police Station, *inter-alia*, stating that on 5<sup>th</sup> September, 2023 at about 9:00 AM in the morning his daughter went missing from the home and even after thorough search, she could not be found.

It is also stated in the FIR that it came to know to the informant that his daughter was seen near the gate of State Zoo, Guwahati along with another boy. However, she was not found on search. On receipt of the said FIR Satgaon P.S. Case No. 164/2023 was registered initially under Section 363 of the Indian Penal Code and thereafter, Section 368 of the Indian Penal Code was added.

It is submitted by learned counsel for the petitioner that in the FIR, no allegation has been made regarding kidnapping, infact it is only a missing information given to the police station and it is not clear on what basis police registered the case under Section 363 of the Indian Penal Code.

It is also submitted by learned counsel for the petitioner that in the meanwhile, the victim has already been recovered and she has not implicated the present petitioner.

It is also submitted that the present petitioner has already undergone detention and is behind the bars since last 22 days.

On the other hand, Ms. S.H. Bora, learned Additional Public Prosecutor, Assam has produced the case diary of Satgaon P.S. Case No. 164/2023 and has submitted that the police has recovered the victim girl and her statement under Section 164 of the Code of the Criminal Procedure, 1973 has also been

recorded. It is also stated submitted by the learned Additional Public Prosecutor that the victim has not implicated the present petitioner and it is stated by her that she left on her own with the present petitioner and thereafter returned back on her own.

However, learned Additional Public Prosecutor submits that the victim girl is a minor of 16 years of age.

I have considered the submissions made by learned counsel for both the parties and perused the materials on record, including the case diary of Satgaon P.S. Case No. 164/2023.

Considering the fact that there is no incriminating materials in the case diary to justify the further detention of the present petitioner for the sake of investigation, the petitioner, namely, Ajgar Ali is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M) with following conditions that:-

- (i) he 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 such persons from disclosing such facts to the Investigating Officer; and
- (ii) he shall continue to co-operate with the Investigating Officer of the said case.

With the above observation, this bail application is hereby disposed of.

Send back the case diary.

**JUDGE**

**Comparing Assistant**