

GAHC010113412025



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

Case No. : Bail Appln./1756/2025

JAHIDUL ISLAM
S/O AJAHAR ALI
R/O VILL- TAPJULI
P.S. KALGACHIA
DIST. BARPETA, ASSAM

VERSUS

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

2:FULMALA KHATUN
D/O SULEMAN ALI
R/O MOURI GAON
P.O.MANDIA
P.S. BAGHBAR
DIST. BARPETA
ASSA

Advocate for the Petitioner : MR. N J DUTTA, IMDADUL ISLAM,M RAHMAN,MR A
BASUMATARY,MR. M M ZAMAN,MR N AHMED

Advocate for the Respondent : PP, ASSAM, MR D K BHATTACHARYYA, (AMICUS CURIAE, R-
2)

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 31.07.2025

1. Heard Mr. N. J. Dutta, learned counsel for the petitioner. Also heard Mr.

B. Sarma, learned Additional Public Prosecutor as well as Mr. D. K. Bhattacharyya, learned Amicus Curiae for the respondent No. 2.

2. This application under Section 483 of BNSS, 1973 has been filed by the petitioner, namely, *Jahidul Islam*, who has been detained behind the bars since 29.11.2024, (for last 245 days), in connection with Special POCSO Case No. 7/2025 under Sections 108/64 of BNS read with Section 6 of the POCSO Act as well as Section 9 of the Prohibition of Child Marriage Act.

3. The gist of accusation in this case is that on 29.11.2024, the mother of the victim girl had lodged an FIR before the Officer-in-charge of Kalgachia Police Station, *inter alia*, alleging that about two years prior to the lodging of the FIR, the petitioner had kidnapped the minor daughter of the informant. It is also alleged that her daughter became pregnant and on 27.11.2024, the minor daughter of the petitioner had an abortion and the petitioner beat her to death.

4. The learned counsel for the petitioner submits that the post-mortem examination report of the victim girl shows that the death of the victim was due to suicidal hanging. He also submits that the petitioner has been detained behind the bars for last 245 days and most of the material witnesses have been examined by the Trial Court. He submits that out of 11 listed prosecution witnesses, 6 witnesses including the informant have been examined. He also submits that unless the petitioner is released on bail, he may not be able to defend his case properly.

5. On the other hand, learned Additional Public Prosecutor has opposed the grant of bail to the petitioner on the ground that the witnesses who have been examined till date have implicated the petitioner in the offence alleged in this case. He also submits that 2 of the independent witnesses are yet to be examined and the prayer for bail of the present petitioner was rejected by the Trial Court on four occasions mainly on the grounds that material witnesses were not examined at

that time. He also submits that there is a possibility of the petitioner influencing the independent witnesses, if he is released on bail at this stage. Hence, he opposes the grant of bail to the petitioner.

6. Mr. D. K. Bhattacharyya, learned Amicus Curiae has also make submissions similar to that of learned Additional Public Prosecutor and opposed the grant of bail to the petitioner at this stage.

7. I have considered the submissions made by the learned counsel for both sides and have gone through the scant copy of the records of Special POCSO Case No. 7/2025.

8. In this case, there are materials to indicate that the victim was married to the petitioner though she was minor at the time of her marriage. It also appears that the charges have been framed against the petitioner, *inter alia*, under section 108 of BNS and the informant and most of the material witnesses have been examined. It also appears from the submissions made by the Additional Public Prosecutor that two of the witnesses were also examined *in camera*. The remaining witnesses, one of whom is a seizure witness and another is a witness who deposed regarding the situation of the room where the dead body of the victim was found are adult persons of 35 years of age and 52 years of age respectively.

9. Though, the learned Additional Public Prosecutor and the learned Amicus Curiae are apprehensive that both the independent witnesses may be influenced by the petitioner, if he is released on bail at this stage, however, no material is there on record, which could be the basis for such an apprehension. Hence, this Court is of considered opinion that, if sufficient conditions are imposed on the petitioner, the apprehension of the learned Additional Public Prosecutor as well as the learned Amicus Curiae may be addressed.

10. Considering the fact that most of the material witnesses have been

examined as well as facts which are discussed in the following paragraph, this Court is of considered opinion that, if the petitioner co-operates in the trial, his further custodial detention may not be necessary for fair completion of the trial of Special POCSO Case No. 7/2025.

11. In view of above, the above named petitioner is allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of the learned Special Judge (POCSO) Barpeta, with the following conditions:

- i. That the petitioner shall not directly or indirectly make any inducement, threat or promise to the witnesses or any other person who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts of the case before the Trial Court;
- ii. That the petitioner shall co-operate in the trial;

12. This bail application is accordingly disposed of.

JUDGE

Comparing Assistant