

GAHC010038032024



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

Case No. : Bail Appln./526/2024

SAFIC ALAM AHMED
S/O LATE HASSAN ALI
R/O BASISTHA BARPATTHAR
P.S. BASISTHA,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.03.2024

Heard Ms. F. Hussain, learned counsel for the accused and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Safic

Alam Ahmed, who has been languishing in jail hazot since 18.01.2024, in connection with Basistha P.S. Case No.44/2024, under Section 354A(i)/354B/34 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Smt. X (name withheld) on 17.01.2024. The essence of allegation made in the aforesaid FIR is that on that day, in between 5 to 5:30 p.m., she went to the tailoring house to collect her garment, which she has given there for alteration/modification, and while she tried to take a trial of the garment, then the tailor subjected her to sexual harassment. She then beat the accused with her bag and then the head tailor asked the accused tailor to flee away.

4. Ms. Hussain, learned counsel for the accused, submits that this is the 2nd bail application preferred by the accused and the first one being Bail Appln. No.334/2024 was dismissed by this Court after perusing the case diary on 12.02.2024 and the ground for filing this 2nd bail application is the length of detention, as the accused is languishing in jail hazot for last 44 days. Ms. Hussain further submits that in the interest of investigation, further custodial detention may not be required and therefore, Ms. Hussain contended to allow this petition.

5. Whereas, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the statement of the victim girl under Section 164 Cr.P.C. is not recorded and further submits that after rejection of the earlier bail application, the case diary has not yet been updated.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. It appears that the first bail application was rejected on 12.02.2024 after perusing the case diary. Since then more than 18 days over and from the date of arrest, the accused has been languishing in jail hazot for last 44 days.

8. Having regards to the period of detention and also having regards to the nature

and gravity of the offence and the materials collected so far in the case diary, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Kamrup(M), the accused, namely, Safic Alam Ahmed, be enlarged on bail. Case diary be returned.

9. In terms of above, this bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant