

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE -CUM-
SPECIAL JUDGE (POCSO), KAMRUP (M), GUWAHATI.**

Present: Sri Nuruddin Ahmed, AJS

Sessions (Spl.) Case No. 93 of 2026

State of Assam

-Vs-

Rishi Baishya & Another

ORDER

Date – 11.08.2026

1. Today is fixed for order.
2. By filing petition No. 1310/26 accused **Rishi Baishya** prayed for allowing him to remain on previous bail and/or to pass such other order/orders as this court may deem fit and proper and further by filing petition No. 1313/26 the petitioner prayed for granting bail to the accused **Kushal Deka** who is in custody in connection with the case.
3. Heard learned Counsels for the accused petitioners and the Special Public Prosecutor appearing for the State.
4. The informant-cum-victim also appeared in the case on 04.08.2026 and filed written objection to the bail applications and perused the same.
5. The informant-cum-victim also heard in person. At the time of hearing, informant-cum-victim raised strong objection to the bail application of accused persons and the prime contention of the informant-cum-victim is that the accused Rishi Baishya belongs to an influential and financially sound family and he after obtaining interim bail has been spreading rumours

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concerning her and her mental condition and also attempting to her character assassination. Further contention of the informant-cum-victim is that if the interim bail of accused Rishi Baishya is made absolute there is every possibility of intimidating and influencing witnesses and also tampering of evidences of the case during trial. This apart, informant-cum-victim submitted that the accused Rishi Baishya after his grating interim bail has been trying to contact her through her friends and cousins causing psychosocial trauma to her and accordingly prayed for rejection of bail of accused Rishi Baishya by vacating the interim bail. The informant-cum-victim also raised objection to the bail of co-accused Kushal Deka who is in custody.

6. The accused Rishi Baishya filed affidavit-in-reply to the said bail objection of informant-cum-victim and perused the same.
7. The learned counsel for the accused Rishi Baishya submitted that accused/petitioner was arrested on 06.05.2026 in the case and thereafter he was released on interim bail on 19.05.2026 pursuant to order dated 18.05.2026 passed in Bail/Appln./1289/2026 by the Hon'ble Gauhati High Court. Further contention of the learned counsel is that as the charge sheet was filed in the case, as such, the Hon'ble High Court vide order dated 16.07.2026 was pleased to dispose of the aforesaid bail application with a liberty to the accused/petitioner to appear before this court for appropriate relief within a period of 10 days from the date of order by extending the earlier interim order.

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8. The learned counsel for the accused Rishi Baishya further submitted pursuant to aforesaid direction of the Hon'ble High Court the accused appeared before this court on 21.07.2026 and this court allowed the accused to remain on interim bail and the accused never misused the liberty of interim bail granted to him during the period of interim order. Further contention of the learned counsel is that the allegation leveled against the accused inasmuch as apprehension of informant-cum-victim so raised is totally false and without any basis and it is only for harassing the accused. It is also submitted that the investigation of the case has already been completed and charge-sheet has been submitted by the Investigating Officer, as such, hampering of investigation or tampering of evidence does not arise at all at this stage and custodial trial of the accused is also not warranted in the given circumstances, accordingly, the learned counsel for the accused prayed for making absolute of the interim bail of accused Rishi Baishya. The learned counsel for the accused also submitted that the accused undertakes that he shall appear before this Court on each and every date of hearing, unless his personal appearance is specifically dispensed with and accused also undertakes that he shall not directly or indirectly contact, threaten, influence or induce the victim or any prosecution witness during trial. The learned counsel for the accused relied on order dated 03.08.2026 passed in Bail.Appln/1655/2026, order dated 17.09.2025 passed in AB/2287/20256, order dated 25.03.2026 passed in Bail.Appln/868/2026 of Hon'ble Gauhati High Court,

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decision of Mukesh Kishanpuria Vs State of West Bengal, (2010) 15 SCC 154, In Re. N. Peddi Raju and Others, 2025 Livelaw (SC) 806 and Sukhwant Singh & Ors Vs State of Punjab, 2009 (7) SCC 559.

- 9.** Further, the learned counsel for the accused Kushal Deka submitted that accused has been languishing in jail since 19.05.2026 and considering the detention period of the accused, the bail prayer of the accused may be considered. The learned counsel further submitted that the charge-sheet of the case has already been filed in the case and therefore custodial detention of the accused is no longer required. It is also submitted that the accused has no criminal antecedent and accused also undertakes not to tamper with evidence or influence any witness during trial if he is allowed to go on bail on the ground of parity. It is further contended that the co-accused Rishi Baishya has been granted interim bail, as such, the accused Kushal Deka may also be granted bail. The learned counsel for accused Kushal Deka also submitted that the accused undertakes to attend the court regularly and is also ready to comply with any condition if he is allowed to go on bail.
- 10.** Per contra, the learned Special Public Prosecutor submitted to pass order as the court may deem fit and proper based on materials on record.
- 11.** Perused the case record.
- 12.** Perusal of the case record reveals that the accused Rishi Baishya was arrested on 06.05.2026 and he was released on

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interim bail pursuant to order dated 18.05.2026 passed in Bail.Appln/1298/2026 by the Hon'ble Gauhati High Court and thereafter, the Investigating Officer of the case submitted charge sheet in the case against both the accused persons Rishi Baishya and Kushal Deka.

13. Case record further reveals that on 21.07.2026, the accused Rishi Baishya has approached this court by filing petition No. 1310/26 basically stating therein that he was arrested on 06.05.2026 and he was also allowed to go on interim bail vide order dated 18.05.2026 passed in Bail.Appln./1289/2026 by the Hon'ble Gauhati High Court and subsequently the Hon'ble High Court vide order dated 16.07.2026 has been pleased to dispose of the aforesaid bail application with liberty to him to appear before this court for appropriate relief by extending interim order passed earlier and accordingly he prayed for allowing him to remain on previous bail and/or pass such other order/orders as this court may deem fit and proper.

14. Case record further reveals that vide order dated 21.07.2026 the accused Rishi Baishya was allowed to remain on interim bail by this court till next date and Annexure A alongwith a copy of bail petition was also ordered to be provided to the Officer-in-charge of the concerned police station pursuant to notification No. 17 dated 15.03.2024 of the Hon'ble Gauhati High Court for service upon informant-cum-victim for disposal of the bail application and accordingly, informant-cum-victim appeared before this court and filed written objection to the bail applications of the accused persons as stated earlier.

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15. Perusal of the materials on record further reveals that accused Rishi Baishya is an FIR named accused person and as stated above the Investigating Officer of the case submitted charge sheet in the case and in the charge-sheet, the Investigating Officer has recorded her satisfaction that a prima facie case is established under Section 65(1)/77/351(2) BNS r/w section 6/17 of POCSO Act against the accused persons. Case record also reveals that having found prima facie incriminating materials against the accused persons, charge has been framed against accused Rishi Baishya u/s 65(1)/351(2)/77 BNS r/w section 6 of the POCSO Act and u/s 6/17 of the POCSO Act against the co-accused Kushal Deka, which not only shows the gravity and seriousness of offence of the case but also indicates prima facie complicity of accused persons in the alleged offence and presently the case is posted for evidence and the material witnesses including informant-cum-victim are yet to be examined in the case. This apart, from the submission of the learned counsel for the parties and also of the informant-cum-victim it appears that this is obviously a case where the personal liberty and social interest are tilted against each other. However, having regard to the sensitive nature and gravity of offence with which the accused has been charged with and facing trial and its perilous effect on the society as a whole, and also taking note of the impact of granting or refusing bail on the society and personal liberty of accused particularly when the possibility of influencing or threatening the witnesses and tampering of evidence in the given sensitive case with the

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accused's influential background so raised by the informant-cum-victim cannot be ruled out in toto as frivolous, this court is of the considered view that the balance between personal liberty and social interest is tilted against granting bail to the accused by making absolute the interim bail as it may hamper proper and fair trial of the case. So, the case laws relied on by the learned counsel for the accused is appeared to be no help for the accused in the given facts and circumstances of the case.

16. In view of the above and given the sensitive and serious nature of offence with which the accused Rishi Baishya is charged with and facing trial including apprehension so raised by the informant-cum-victim and also taking note of entire materials on record and stage of the case, this court is of the considered view that it would not be safe to grant bail to the accused before examining the material witnesses including informant-cum-victim and hence this court is not inclined to grant bail to the accused Rishi Basihya by making absolute of the interim bail order dated 21.07.2026 and accordingly the interim bail order dated 21.07.2026 passed by this court is recalled and prayer for bail of accused Rishi Baishya stands **rejected** and the petition is disposed of and the accused is taken into custody accordingly. Issue custody warrant against the accused Rishi Baishya.

17. Now with regard bail application of accused Kushal Deka, it is pertinent to mention here that as stated above the charge-sheet has been filed against him alongwith co-accused Rishi

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Baishya and charge also been framed against him u/s 6/17 POCSO Act showing his prima facie complicity in the alleged offence and as stated earlier presently the case is posted for evidence and the material witnesses including informant-cum-victim are yet to be examined in the case, as such, given the serious nature of offence with which the accused is charged with and facing trial and also taking note of entire materials on record and stage of the case, this court is also of the considered view that before examining the material witnesses including informant-cum-victim it would not be safe to release the accused on bail and hence this court is also not inclined to release the accused on bail and accordingly the prayer for bail of the accused Kushal Deka stands **rejected** and the petition is disposed of.

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