

GAHC040012362025



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

Case No. : BA/91/2025

Smti Sufia Khatun
Daughter of Abdul Ali, resident of 53, Phukan Dalani, PO and PS Naoboicha,
Lakhimpur District, Assam

VERSUS

The State of AP and 2 Ors
represented by the PP of AP 2:Choharab Alam
Age: 0
Occupation :
Son of Ali Hussain
present address Near Petrol Pump
Karsingsa
PO and PS Banderdewa
Papum Pare District
Arunachal Pradesh.

3:Miss XYZ
Age: 0
Occupation :
Daughter of Choharab Alam
present address Near Petrol Pump Karsingsa
PO and PS Banderdewa
Papum Pare District
Arunachal Pradesh

Advocate for the Petitioner : Pate Mesi Lomdak, Lardam Murtem, Khogen Bui, Taw Tungka

Advocate for the Respondent : P P of AP, Tailang Laji

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 24.09.2025

Heard Mr. P. M. Lomdak, learned counsel for the applicant. Also heard Mr. G. Tado, learned Additional Public Prosecutor for the State respondent No.1 and Mr. M. Khamcham, learned counsel for the victim/informant representing respondent No.2.

2. The applicant is the elder sister of the accused Shri Miya Hussain Ali. She has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, seeking release of the accused on bail, in connection with Itanagar WPS Case No.22/2023, under Section 87/64 of BNS read with Section 4/6 of the POCSO Act, 2012.

3. The prosecution case is that on 23.04.2024, one Shri Choharab Alam, father of the victim, lodged a written FIR before the Officer-in-Charge, Itanagar Women Police Station, alleging that his daughter, aged about 17 years, had eloped with the accused, who is a married man. Based on the said FIR, the aforementioned case was registered. Upon completion of investigation, a charge sheet was filed against the accused under Section 87 of the BNS read with Section 6 of the POCSO Act. The charges were subsequently framed under Sections 87/64 of the BNS read with Section 6 of the POCSO Act.

4. The learned counsel for the applicant submits that the accused was arrested on 05.05.2025 and has been in custody for more than 140 days. It is further submitted that the accused and the victim were in a relationship and that the accused was unaware of the victim's minority. The learned counsel for the applicant also submits that the accused is the only earning member of the

family, and his mother is a beggar residing at Laluk and 3(three) brothers and sisters are depending on accused's earning.

5. As per the record, the victim aged about 17 years gave her statements both before the police as well as the Magistrate under Section 183 of the BNS, and stated that she had gone with the accused voluntarily to his father's house at Lakhimpur, where she stayed for two days before being taken to Laluk Police Station. She further stated that on 23.04.2025, she had voluntarily left her house and met the accused at Lakhimpur, where they stayed for thirteen days. The victim has not made any allegation of forceful sexual assault.

6. The learned counsel for the informant and victim fairly submitted that they have no objection to the release of the accused on bail.

7. Mr. Tado, learned Addl. P.P. submits that although the victim has stated that she voluntarily had left with the accused, he opposes the bail only because the matter has been registered for commission of offence under POCSO Act.

8. I have heard the learned counsel for the parties and also perused the materials available on record.

9. Upon consideration of the material available on record, and considering that there is no specific allegation against the accused for sexual assault and also, considering that the accused has remained in custody for more than 140 days, this Court is of the opinion that the further custodial detention of the accused is not warranted.

10. In view of the above, the accused namely, **Shri Miya Hussain Ali**, is directed to be released on bail, on execution of bail bond of Rs.5,000/-(Rupees Five thousand) only, with one surety of like amount to the satisfaction of the

learned Special Judge, POCSO Act, Yupia, subject to the following conditions:

- (i) that the accused shall appear before the learned Trial Court on each and every date as and when fixed for hearing; and
- (ii) that he shall not directly or indirectly, influence, threaten, or induce the victim or any prosecution witness in any manner.

11. With the above, the bail application stands disposed of.

JUDGE

Comparing Assistant