

GAHC010017272023



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

Case No. : AB/254/2023

MD. BABU ALI AND ANR
S/O RUPCHAN ALI
CHOTO KALIA PART-III,
P.O. AND P.S. FAKIRGANJ, DHUBRI
DIST. DHUBRI, ASSAM

2: RABIYA BIBI
W/O RUPCHAN ALI
CHOTO KALIA PART-III

P.O. AND P.S. FAKIRGANJ
DHUBRI
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 25.05.2023

Heard Mr. A Paramanik, learned counsel for the petitioners. Also heard Mr. B Sharma, learned Addl. Public Prosecutor for the State/respondent.

This petition under Section 438 Cr.P.C., is filed by **1. Md. Babu Ali** and **(2) Rabiya Bibi** praying for granting of the privilege of pre-arrest bail apprehending their arrest in connection with **Gossaigaon P.S. Case No. 403/2023** registered u/s 9/10/11 of Child Marriage Act.

Case diary is received.

It may be mentioned that by order, dated 01.02.2023, this Court granted the privilege of interim pre-arrest bail to the petitioner No.2.

Mr. B Sarma, learned Addl. Public Prosecutor, submits that the case diary shows that the petitioner No.2 appeared before the investigating officer and got his statements recorded under Section 161 Cr.P.C. as per the interim pre arrest bail granted earlier. There is no adverse report against the petitioner No.2 from the I.O.

Therefore, the interim pre-arrest bail granted vide order, dated 01.02.2023 to the **petitioner No.2, Rabiya Bibi** is hereby made absolute, subject to the following conditions-

- (i) That the petitioner No.2 shall co-operate in investigation as and when required;
- (ii) That the petitioner No.2 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 him from disclosing such facts to the Court or to any police officer; and
- (iii) That the petitioner No.2 shall not hamper or tamper with the investigation in any manner.

So far the pre-arrest bail application of the petitioner No. 1 is concerned, on perusal of the case diary, it is seen that there was love relation between the petitioner No.1 and the victim for about 6 months and thereafter they eloped and got married. It is also revealed that after 3/4 months of marriage, the victim was subjected to cruelty. However, this Court finds that in the backdrop of facts and evidence available in the case diary, his custodial interrogation in the interest of investigation may not be necessary.

In view of above, the prayer for anticipatory bail of the **petitioner No. 1, Md. Babu Ali** is hereby granted.

Accordingly, it is provided that in the event of arrest of the petitioner No.1, named above shall be released on **pre-arrest bail**, in connection with the above noted case on furnishing bail bond of **Rs.30,000/- (Thirty Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner No.1 shall appear before the Investigating Officer within 7 days,

failing which, on the 8th day, the anticipatory bail order shall automatically expire;

(ii) That the petitioner No.1 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 him/her from disclosing such facts to the Court or to any police officer.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant