

GAHC010031042023



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

Case No. : Bail Appln./515/2023

MD. ESMAIL ALI AND ANR.
S/O MD. ISLAM ALI,
VILL.- BATIYAMARI,
P.S. AND DIST.- TAMULPUR, ASSAM.

2: MD. ISLAM ALI
S/O LATE BHARAPUR

VILL.- BATIYAMARI

P.S. AND DIST.- TAMULPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 16.02.2023

Heard Mr. M.A. Islam, learned counsel for the petitioners. Also heard Ms. S.H. Bora, learned APP appearing for the State.

By this application under Section 439 Cr.P.C., the petitioners, namely, Md. Esmail Ali and Md. Islam Ali, who were arrested on 03.02.2023, who are the son and father respectively, are seeking regular bail in connection with Tamulpur PS Case No. 72/2023 under Sections 9/10/11 of Prohibition of Child Marriage Act read with Section 6 and 17 of the Protection of Children from Sexual Offences Act.

The learned APP has opposed the prayer for bail and has submitted that the perusal of the case diary would be necessary.

It is projected in this case that the marriage of the petitioner no.1 with the victim girl was solemnized when the victim girl was reportedly minor and out of the said wedlock, a male child was born on 10.10.2022.

In view of the said position that the victim girl is married to the petitioner no. 1 and a male child was born, the Court is of the considered opinion that further custodial interrogation of the petitioners is not required.

Accordingly, this Court is inclined to release the petitioners named above on bail in connection with the case aforementioned on furnishing bail bond of Rs.40,000/- with one solvent surety of like amount to the satisfaction of learned Special Judge, Baksa, Mushalpur on the following conditions:

1. That the petitioners shall make themselves available to the police or any other investigating agency or Court in the present case as and when required.
2. That the petitioners 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 them from disclosing such facts to Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses.

3. That they shall not obstruct the smooth progress of the investigation/trial.

4. That the petitioners shall not misuse their liberty in any manner.

5. That the petitioners shall not jump over the bail.

6. That the petitioners shall appear before the I.O. within 10 days from the date of their release and shall continue to appear once in month till their appearance is dispensed with by the I.O., or filing of the charge-sheet, whichever is earlier.

This bail application stands disposed of.

JUDGE

Comparing Assistant