

GAHC010032472023



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

Case No. : AB/461/2023

ABDULLAH KHAN
S/O LATE LUTFOR RAHMAN KHAN
A RESIDENT OF VILL AND P.O. GOMAFULBARI, P.S. TARABARI,
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR A R BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

17.03.2023

Mr. A.R. Bhuyan, learned counsel, appears for the petitioner.

Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam appears for the State.

The petitioner, namely, Abdullah Khan, has preferred this Anticipatory Bail Application apprehending arrest in connection with Tarabari Police Station Case

No.06/2023 registered under Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006 read with Section 6/17 of the Protection of Children From Sexual Offences Act, 2012.

The petitioner is a Muslim marriage and divorce Registrar and he has been given a licence to perform his duties by the Government under the *Assam Muslim Marriages and Divorces Registration Act, 1935* (as amended up-to-date).

According to the petitioner, in terms of the licence granted by the Government, he has been performing his duties in the jurisdiction of all the villages of Betbari Mauza, part of Bhabanipur Mauza and part of Pacca Betbari Mauza in the district of Barpeta. The petitioner has been functioning as a licensed Muslim Marriages and Divorces Registrar with effect from the date of issuance of the licence, i.e., 10.09.2002.

A First Information Report, dated 02.02.2023, came to be lodged before the Tarabari Police Station by the informant, Ashak Khan, alleging that a minor girl, namely, Mahinur Begum, daughter of Falu Khandakar, has been forcefully married to a man named Sanidul Islam in the month of August, 2021. It is also alleged that the girl was married in lieu of money and now she has delivered a baby as well. It is further alleged that the parents and the relatives of the minor girl had solemnized the marriage in a traditional manner in the presence of the relatives of both the girl and the groom. The said FIR was registered as Tarabari Police Station Case No.06/2023 under Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006 read with Section 6/17 of the Protection of Children From Sexual Offences Act, 2012.

The FIR being registered, police commenced investigation in the matter.

This Court by order, dated 15.02.2023, while calling for the Case Diary, had granted interim bail to the petitioner.

Today, when the matter is called up, the learned Additional Public Prosecutor, Assam has produced the Case Diary.

Heard learned counsel for the parties. Perused the petition and also the Case Diary received.

It is seen from the Case Diary that a marriage was solemnized between Md. Sanidul Islam and Mostt. Mahinur Begum, daughter of Falu Khandakar. A marriage certificate was issued by the Marriages and Divorces Registrar, Barpeta under the signature of the present petitioner. Besides the marriage certificate, no other incriminating materials are noticed in the Case Diary against the petitioner. There is nothing in the Case Diary to suggest that the petitioner did not abide by the conditions which were imposed by this Court at the time of granting interim bail on 15.02.2023. Moreover, there are no materials to suggest that the petitioner did not cooperate with the investigation or that continuance of the petitioner on interim bail has hampered progress of the investigation.

It is also seen that under Rule 26 of the *Assam Muslim Marriages and Divorces Registration Rules, 1935*, (in short, the 1935 Rules) the Muslim Marriage Registrar is required to satisfy himself whether or not a marriage was effected by the person by whom it is represented to have been effected – by examining the parties to the marriage or if either or both of them are minor, their lawful guardians and also by examining two witnesses who were present in the marriage.

There are no materials in the Case Diary to suggest that the procedures prescribed under Rule 26 of the 1935 Rules have not been followed.

Accordingly, this Court is of the view that the interim bail granted to the petitioner by this Court vide order, dated 15.02.2023, can be made absolute. Ordered accordingly.

The interim bail granted to the petitioner is hereby made absolute on the same terms and conditions imposed by this Court vide order, dated 15.02.2023.

The Anticipatory Bail application is, accordingly, disposed of.

Case Diary be returned back.

JUDGE

Comparing Assistant