

GAHC010037222023



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

Case No. : Bail Appln./613/2023

MOZER ALI
S/O LATE HOJRAT ALI
R/O TOKRABANDHA
P.S. CHAPAR
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 02.03.2023

Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Mr. D.P. Goswami, learned APP appearing for the State.

The petitioner, who was arrested on 04.02.2023, is seeking regular bail

under section 439 Cr.P.C. in connection with Chapar P.S. Case No. 60/2023 under sections 9/10/11(1) of Prohibition of Child Marriage Act read with Section 4/17 of POCSO Act.

The learned APP has opposed the prayer for bail.

The learned counsel for the petitioner has referred to the FIR and has submitted that the name of the groom is not mentioned in the FIR nor the name of the daughter of the petitioner has been mentioned therein. However, the name of the petitioner appears as accused in the FIR as the father of the victim.

The learned counsel for the petitioner has referred to the forwarding report dated 04.02.2023, wherein the name of the victim girl is mentioned as Masuma Sultana and it is alleged in the brief of the case that five years ago the petitioner had married her, which means that the petitioner has married his own minor daughter.

To counter the allegation, the learned counsel for the petitioner has referred to the admit card of HSLC examination, 2021 to project that the name of the daughter of the petitioner is Anisa Begum, whose date of birth is 01.01.2004. By referring to Kabinnama (Annexure-5), it is submitted that the daughter of the petitioner was major when her marriage was solemnized on 24.02.2022 and registered on 02.06.2022 before the Muslim Marriage and Divorces Register, Bilasipara.

In view of above, as the petitioner has been able to demonstrate that his daughter was a major at the time of marriage, having been born on 01.01.2004, the Court is of the considered opinion that further custodial interrogation of the petitioner may not be necessary. Hence, the Court is inclined to grant bail to the petitioner, namely, Mozer Ali in connection with the aforesaid case on furnishing

bail bond of Rs.50,000/- with one suitable surety of like amount to the satisfaction of the learned Special Judge (POCSO), Bilasipara.

The bail is granted on the following conditions:

1. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
2. The petitioner 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 Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. The petitioner shall not obstruct the smooth progress of the investigation/trial.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall appear before the I/O within 10 (ten) days from the date of his release and he shall continue to appear once in a month till his appearance is dispensed with or charge-sheet is filed, whichever is earlier.

This application stands disposed of.

JUDGE

Comparing Assistant