

GAHC010040412023



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

Case No. : Bail Appln./701/2023

NUR MAHAMMAD ALI @ NUR MD ALI AND ANR
S/O- LT. RACHE @ LT. RASE ALI, R/O- VILL- MERKUCHI, P.S. BARAMA,
DIST.- BAKSA, ASSAM

2: MD. ALIAS ALI
S/O- NUR MAHAMMED ALI
R/O- VILL- MERKUCHI
P.S. BARAMA
DIST.- BAKSA
ASSA

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 28-02-2023

Heard Mr. G. Uddin, learned counsel for the petitioner as well as Mr. D.P. Goswami, learned APP for the State.

2. The petitioners, namely, (1) Nur Mohammad Ali @ Nur Md. Ali and (2) Md. Alias Ali, who were arrested on 03.02.2023 and 06.02.2023 respectively in connection with Barama P.S. case no.31/2023 under sections 9/10/11 of Child Marriage Prohibition Act, 2006 read with section 6/17 of POCSO, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned APP has opposed the prayer for bail on the ground that the victim girl was married being a minor.

4. The learned senior counsel for the petitioners has submitted that no child was born to the petitioner no.2 and the alleged victim girl. He also submits that although at the time of marriage the victim girl was a minor, but presently she has attained the age of majority and is now pregnant.

5. Be that as it may, as the petitioner has already spent 25 days and 22 days respectively in custody, further custodial interrogation of the petitioners are not warranted. Hence, the Court is inclined to release the petitioners, namely, (1) Nur Mohammad Ali @ Nur Md. Ali and (2) Md. Alias Ali, on bail on furnishing bail bond of Rs.50,000/- each with one solvent surety of like amount to the satisfaction of the learned Special Judge, Baksa.

6. The bail is granted on the following conditions:

- a. The petitioners shall make himself available to the police or any other investigating agency or Court in the present case as and when required.

- b. 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 him 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 witness.
- c. The petitioners shall not obstruct the smooth progress of the investigation/trial.
- d. The petitioners shall not misuse their liberty in any manner.
- e. The petitioners shall once again appear before the IO once in 15(fifteen) days and they shall continue to appear once a month till their personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
- f. Within 10(ten) days from the date of their release on bail, the petitioners shall appear before the IO along with the victim girl for further investigation.

7. The application stands disposed of.

JUDGE

Comparing Assistant