

GAHC010040682023



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

Case No. : Bail Appln./663/2023

SAHARUL ISLAM BARBHUIYA
S/O HAIDOR HUSSAIN BARBHUIYA
R/O VILL- BANGALPUR 10 NO. GROUP P.S.LALA,
DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K MIRA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.02.2023

Heard Mr. H.R.A. Choudhury, learned senior counsel assisted by Mr. K. Mira, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned APP appearing for the State.

2. The petitioner, who was arrested on 05.02.2023, is seeking regular bail under section 439 Cr.P.C. in connection with Lala P.S. Case No. 46/2023, under sections 9/10/11 of the Prohibition of Child Marriage Act, 2006, read with section 6/17 of the POCSO Act, corresponding to Special (POCSO) Case No. 82/2023, pending before the Court of learned Special Judge, POCSO, Hailakandi.

3. The learned APP has opposed the prayer for bail at this stage on the ground that at the time of marriage, the victim girl was a minor.

4. Considering the projection that the victim girl was born on 20.12.2002 and out of the wedlock, two children were born, notwithstanding that on 13.01.2019, the victim was a minor, 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, Saharul Islam Barbhuiya in connection with the aforesaid case on furnishing bail bond of Rs.50,000/- with one solvent surety of like amount to the satisfaction of the learned Special Judge, POCSO, Hailakandi.

5. Bail is granted on the following conditions:

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

III. The petitioner shall not obstruct the smooth progress of the investigation/trial.

IV. The petitioner shall not misuse his liberty in any manner.

V. 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 every month till his appearance is dispensed with or charge-sheet is filed, whichever is earlier.

VI. The petitioner shall produce the victim girl before the I/O for further investigation.

VII. If the petitioner does not comply with the conditions of bail, it would be open for the I/O to approach the jurisdictional Court and apply for cancellation of bail.

6. This application stands disposed of.

7. The photocopy of the birth certificate of the alleged victim girl produced by the learned senior counsel for the petitioner is retained on record.

JUDGE

Comparing Assistant