

GAHC010041942023



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

Case No. : Bail Appln./733/2023

KANAYA LAL AND 2 ORS
S/O SRI BHANWAR LAL
R/O VILL- CHALASAR
P.S. CHALASAR
DIST. CHURU, RAJASTHAN

2: HARI PRASAD
S/O JAGDISH
R/O VILL- WARD NO. 1

PACHARA
P.S. CHALASAR
DIST. CHARU
RAJASTHAN
PRESENT ADDRESS
VILL- 2 NO. PARBATIPUR
P.S. BIHPURIA
DIST. NORTH LAKHIMPUR

3: MONIKA BORAH
W/O LATE LAMBUDHAR BARAH
R/O VILL- 2 NO. PARBTIPUR
P.S BIHPURIA
DIST. NORTH LAKHIMPU

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 02.03.2023

Heard Mr. B. Chowdhury, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned APP appearing for the State.

By this application under Section 439 Cr.P.C., the petitioners, namely, (1) Kanaya Lal, (2) Hari Prashad, and (3) Monika Borah, who were arrested on 06.02.2023, are seeking regular bail in connection with Bihpuria PS Case No. 25/2023 under Sections 9/10/11(1) of Prohibition of Child Marriage Act read with Section 4 and 17 of the Protection of Children from Sexual Offences Act.

The learned APP has opposed the prayer for bail on the ground that the victim girl being born on 08.02.2007 is still a minor.

The learned counsel for the petitioner has submitted that the previous bail application was rejected by the court of learned Addl. Sessions Judge (FTC), North Lakhimpur, Lakhimpur, but the said fact stated to be inadvertently left out in this application.

The learned counsel for the petitioner admits that when petitioner no.2 married the victim girl, she was a minor being born on 08.02.2007. It is also submitted that the petitioner no.1 is the brother-in-law and petitioner no. 3 is the neighbor of petitioner no.1.

In view of the admission that the victim girl is a minor, and considering that the petitioners have already spent 24 days in custody, 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.50,000/- each with one solvent surety of like amount to the satisfaction of learned Special Judge, North Lakhimpur, Lakhimpur 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