

GAHC010042742023



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

Case No. : Bail Appln./695/2023

ABDUL HANNAN BARBHUIYA
S/O- AMIR UDDIN BARBHUIYA, R/O- JHALNACHERRA F.V, P.S.
RAMNATHPUR, DIST.- HAILAKANDI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. J LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

17.03.2023

Heard Mr. J. Laskar, learned counsel for the accused-petitioner and Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This bail application has been filed by the accused-petitioner namely,

Abdul Hannan Barbhuiya, seeking bail in connection with **Ramnathpur P.S. Case No. 32/2023, corresponding to Special (POCSO) Case No. 98/2023** under Sections 9/10/11(1) of the Prohibition of Child Marriage Act read with Section 6/17 of the POCSO Act. The accused-petitioner was arrested on 09.02.2023 and since then he has been in custody.

3. An FIR dated 09.02.2023 was lodged by the informant one Haru Bhusan Deb wherein it was alleged that the accused-petitioner had married a minor girl namely, Rayna Begum Barbhuiya, about four years ago. It was alleged that the marriage took place by traditional manner in the presence of relatives of both the victim girl as well as the groom. The FIR was received and registered at Ramnathpur P.S. Case No. 32/23 under Section 9/10/11(1) of the Prohibition of Child Marriage Act read with Section 6/17 of the POCSO Act.

4. Pursuant to the FIR being lodged, investigations in the matter was initiated and the accused-petitioner was arrested. A bail petition before Special Judge, Hailakandi which was preferred by the petitioner was also rejected on 14.02.2023.

5. This Court vide order dated 01.03.2023 had called for the case diary.

6. Today when the matter is called up, the learned Addl. Public Prosecutor, Assam submits that the case diary is available and has presented it before the Court.

7. The learned counsels for the parties have been heard. Pleadings on record have been perused. The case diary presented before the Court has also been perused.

8. From the case diary, it is seen that a child was born to the couple on 19.11.2020. In the birth certificate dated 27.09.2021, the name of the father was recorded as Abdul Hannan Barbhuiya, who is the petitioner and the name of the mother is recorded as Rayna Begum Laskar, who is stated to be the minor girl who was married by the petitioner. However, there is no birth certificate available showing that the wife of the petitioner is a minor girl. Both the petitioner and his wife had their statements recorded by the Investigating Officer under Section 161 Cr.P.C. The matter is under investigation and charge-sheet has not yet been filed.

9. From the case diary, it is seen that the petitioner has co-operated with the investigation. No materials are seen from the case diary which indicate that further detention is required for the purposed of investigation. There are also no materials to suggest that release of the petitioner at this stage of investigation will hamper the investigation carried on. In that view of the matter as well as considering the period of detention undergone by the petitioner, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary for investigation in the case.

10. Accordingly, the accused-petitioner, named above, shall be released on bail forthwith, in connection with the aforementioned case on furnishing a bail bond of **Rs.**

15,000/- (Rupees Fifteen Thousand only) with one local surety of like amount to the satisfaction of the learned **Special Judge, Hailakandi**, subject of course, to the following conditions.

(i) That the accused-petitioner shall appear before the Investigating Officer as and when required;

(ii) That the accused-petitioner shall not hamper or tamper with the investigation in any manner;

(iii) That the accused-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 the Court or to any police officer; and

(iv) That the accused-petitioner shall not move out the jurisdiction of the Ramnathpur Police Station without obtaining written permission from the concerned Investigating Officer of the case.

11. If any of the conditions are found to be violated by the accused-petitioner, the Investigating Officer shall be at liberty to seek recall/cancellation of the bail granted to the accused-petitioner.

12. The bail application is allowed and disposed of.

13. Return the case diary.

JUDGE

Comparing Assistant