

GAHC010045472023



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

Case No. : Bail Appln./750/2023

MIZANUR RAHMAN
S/O AZIZUR RAHMAN
R/O VILL- BHURAKATA
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR Z ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 02.03.2023

Heard Mr. Z. Alam, learned counsel for the petitioner. Also heard Mr. Bhaskar Sarma, learned APP appearing for the State.

The petitioner, who was arrested on 19.01.2023, is seeking regular bail

under section 439 Cr.P.C. in connection with Mankachar P.S. Case No. 17/2023 under section 120(B)/366(A)/376 IPC read with sections 9/10/11 of Prohibition of Child Marriage Act read with Section 4 of POCSO Act.

The learned APP has opposed the prayer for bail on the ground that the petitioner though not authorized by law, had conducted the marriage of a minor girl.

The learned counsel for the petitioner admits that the petitioner had got the couple married, which as per the FIR was a marriage with a minor girl. It is noted that the petitioner has not been able to produce any document to show that he is authorized to act as a Kazi under the Assam Moslem Marriages and Divorces Registration Act, 1935.

Nonetheless, as it appears that the petitioner has spent 42 days in custody, 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, Mizanur Rahman 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), South Salmara, Mankachar.

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.

If the I.O. finds that the petitioner is solemnizing any marriage without prior intimation to the Mankachar PS, it would be open to the I.O. to approach the jurisdiction Court and apply for cancellation of bail.

This application stands disposed of.

JUDGE

Comparing Assistant