

GAHC010048052023



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

Case No. : Bail Appln./841/2023

AYUB ALI
S/O- HABIBAR RAHMAN @ HABIBAR PORAMANIK, R/O- VILL.-
BAGRIGURI GAON, P.O. CHUKRUNGBARI, P.S. SORBHOG, DIST. BARPETA,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S A B KHABIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

16.03.2023

Heard Mr. S.A.B. Khabir, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the State.

This application, under Section 439 Cr.PC, is preferred by the petitioner, Ayub Ali, who has been arrested in connection with Sorbhog Police Station Case No.22/2023 registered under Section 9/10/11 of Prohibition of Child Marriage Act, 2006 read with Section 6/17 of POCSO Act, 2012.

An FIR was lodged by the informant Rashid Sonar on 02.02.2023 alleging that a 17 year old girl was forcefully married to one Ayub Ali, i.e., the petitioner. The girl narrated that she was forcefully married to Ayub Ali who is older than her in lieu of money, which was offered to her parents. The marriage took place in a traditional manner in presence of relatives of both the victim girl and the groom. The FIR was registered as Sarbhog PS Case No.22/2023 under Section 120(B) IPC read with Section 9/10/11 of Prohibition of Child Marriage Act, 2006 read with Section 6/17 of the POCSO Act.

Pursuant to investigation, the petitioner, who is the husband of the victim girl, was arrested on 03.02.2023 and since then he has been in judicial custody.

This Court by order, dated 09.03.2023, directed that Case Diary along with the medical report and 164 statement of the victim be produced before the Court.

Today, when the matter is called up, Mr. Gogoi, learned Addl. Public Prosecutor submits that the Case Diary along with 164 statement is available. However, medical report is not available as on date.

Learned counsel for the parties have been heard. The pleadings have been carefully perused.

Upon perusal of the Case Diary, it is seen that the statement of the petitioner has been recorded besides statement of the petitioner under Section 161 Cr.PC. The petitioner has admitted before the police that he had married the girl, who is admittedly a minor.

Perusal of the Case Diary reveals that investigating authorities have proceeded with the investigation but the charge-sheet has not been filed in the matter. This Court is of the considered opinion that since investigation has

progressed considerably and the petitioner has also cooperated with the investigation and that no charge-sheet has been filed as yet, further custodial detention of the petitioner does not appear to be necessary for continuance of the investigation.

Accordingly, taking into account the progress of investigation as well as the period of detention undergone by the petitioner, this Court is of the view that the petitioner can be released on bail.

Accordingly, the petitioner is released on bail on furnishing a bail bond of Rs.20,000/- (Rupees Twenty Thousand) only with one local surety of the like amount to the satisfaction of the learned Additional Sessions Judge-cum-Special Judge, POCSO, Barpeta subject to the condition that the petitioner shall appear before the Court as and when required and he shall not leave the jurisdiction of the competent Court without obtaining prior permission.

The Bail Application is accordingly disposed of.

Case Diary be returned back.

JUDGE

Comparing Assistant