

GAHC010054492023



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

Case No. : AB/902/2023

MD. RIJAKUL ALI AND 3 ORS
S/O MD. HATEM ALI
R/O VILL- BALIDONGA
P.S. SOOTEA
DIST. BISWANATH ASSAM

2: MUSST. REJIYA KHATUN
W/O HATEM ALI
R/O VILL- BALIDONGA
P.S. SOOTEA
DIST. BISWANATH ASSAM

3: MD. HASEN ALI
S/O ABDUL ALI
R/O VILL- BAKULA

P.S. JAMUGURI

DIST. SONITPUR
ASSAM

4: MUSSTT. HANUFA BEGUM
W/O MD. HASEN ALI
R/O VILL- BAKULA P.S. JAMUGURI
DIST. SONITPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. A SAHAD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 30.03.2023

Heard Mr. A Sahad, learned counsel for the petitioners and Mr. B Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition filed under Section 438 Cr.P.C., the petitioners, namely, **1. Md. Rijakul Ali, 2. Musst. Rejiya Khatun, 3. Md. Hasen Ali and 4. Musst. Hanufa Begum** have prayed for granting pre-arrest bail, apprehending arrest in connection with **Sootea P.S. Case No. 17/2023 (GR No. 75/2023)** u/ss 9/11 of the Prohibition of Child Marriage Act r/w Section 6/17 of the POCSO Act .

The Case diary, as called for, is placed before the Court.

The matter relates to the offence of child marriage and marital sexual assault.

It may be mentioned herein that by order, dated 16.03.2023, this Court granted the privilege of interim pre-arrest bail to the **petitioner Nos. 2, 3 and 4**.

Mr. B Sarma, learned Addl. Public Prosecutor, submits that the case diary shows that the **petitioner Nos. 2, 3 and 4** appeared before the investigating officer and got their statements recorded under Section 161 Cr.P.C. as per the interim pre arrest bail granted earlier. There is no adverse report against the **petitioner Nos. 2, 3 and 4** from the I.O.

Therefore, the interim pre-arrest bail granted vide order, dated 16.03.2023 with respect to the **petitioner Nos. 2, 3 and 4** is hereby made absolute, subject to the following conditions-

- (i) That the **petitioner Nos. 2, 3 and 4** shall co-operate in investigation as and when required;
- (ii) That the **petitioner Nos. 2, 3 and 4** 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
- (iii) That the **petitioner Nos. 2, 3 and 4** shall not hamper or tamper with the investigation in any manner.

In respect to the petitioner No. 1 **Md. Rijakul Ali**, it is seen that he is the husband of the victim and it appears that the age of the victim was approximately 16 years and 2 months at the time of her marriage.

In the backdrop of facts and circumstances, this Court finds it not expedient for custodial interrogation of the petitioner No.1.

In view of above, the prayer for anticipatory bail of the petitioner No. 1 is hereby granted.

It is provided that in the event of arrest of the petitioner No. 1, **Md. Rijakul Ali** named above, he shall be released on **pre-arrest bail**, in connection with the above noted case on furnishing bail bond of **Rs.30,000/- (Thirty Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner No. 1, **Md. Rijakul Ali** shall appear before the Investigating Officer within 7 days, failing which, on the 8th day, the anticipatory bail order shall automatically expire; and
- (ii) That the petitioner No. 1, **Md. Rijakul Ali** 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/her from disclosing such facts to the Court or to any police officer.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant