

GAHC010058372023



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

Case No. : AB/965/2023

MOHOR ALI AND 2 ORS
S/O- SOKMAN ALI

2: SOKMAN ALI
S/O- LATE NEHON SHEIKH
BOTH ARE R/O-OF VILL -BAHATI CHAR
P.S- GOALPARA RPS
DIST- GOALPARA
ASSAM

3: AMZAD ALI
S/O- ANSER ALI
R/O-OF VILL -BAHATI N/C KALAICHAR
P.S- GOALPARA RPS
DIST- GOALPARA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR. M HOQUE
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

19.04.2023

Heard Mr. M. Hoque, learned counsel appearing for the petitioners. Also

heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **(1) Mohor Ali (2) Sokman Ali and (3)Amzad Ali** apprehending arrest in connection with **Goalpara RPS P.S. Case No. 08/2023** registered u/s **4/17 of POCSO Act, r/w Section 9/11 of Prohibition of Child Marriage Act.**

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

Mr. M. Hoque, learned counsel appearing for the petitioners, submits that no marriage was solemnized between the victim child girl and the petitioner No.1, but an oral agreement between the guardians of both parties was entered to the effect that they will marry after the victim child attains the age of majority. Mr. Hoque submits that the present age of the victim is about 14 years 2 months and she refused medical examination. Mr. Hoque also submits that the petitioner No.2 is the father of the petitioner No.1 and petitioner No.3 is the father of the alleged victim girl.

Opposing the pre-arrest bail application, Mr. B. Sarma, learned Additional Public Prosecutor, submits that the case diary reveals that the victim girl is aged about 14 years and is a student of class IX. Mr. Sharma further submits that the victim in her statements under Sections 161 and 164 Cr.P.C. denied solemnization of her marriage with the petitioner No.1, but admitted marriage agreement for marriage solemnization on attainment of her majority and no sexual relationship established between them.

The case relates to commission of child marriage and marital sexual intercourse of the victim with the present petitioner No.1.

On scrutiny of the materials on the case diary and hearing the learned counsel of both sides, as above, this Court is of the considered opinion that custodial interrogation of the petitioner may not be required for the purpose of investigation.

Accordingly, it is provided that in the event of arrest, the petitioners, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 30,000/- each** with one local sureties of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 7 days; failing which on and from the 8th day, the pre-arrest bail order shall automatically come to end;
- (ii) 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 him 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