

GAHC010095752023



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

Case No. : AB/1620/2023

NUR SALAM SK AND ANR
S/O LT. ABUL HUSSAIN
VILL- MANKACHAR KALOHAT
P.O. AND P.S. MANKACHAR
DIST. SOUTH SALMARA
MANKACHAR, ASSAM
PIN-783131

2: SAIFUL ISLAM
S/O NUR SALAM SK.
VILL- MANKACHAR KALOHAT
P.O. AND P.S. MANKACHAR
DIST. SOUTH SALMARA
MANKACHAR
ASSAM
PIN-78313

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

19.06.2023

Heard Mr A Z Ahmed, learned counsel appearing for the petitioner and Mr B Sarma,

learned Additional Public Prosecutor for the State of Assam.

2. By this application filed under Section 438 CrPC, the petitioners, 1) Nur Salam Sheikh and 2) Saiful Islam, have sought for pre-arrest bail, apprehending their arrest in connection with Sukchar PS Case No. 95/2023, under Sections 365/376(3) IPC, read with Section 6 of the POCSO Act, read with Sections 9/10/11 of the PCM Act.

3. Learned counsel for the petitioner has submitted on behalf of the petitioner No. 1, Nur Salam Sk that after granting of interim bail by this Court on 09.05.2023, the petitioner No. 1, has appeared before the Investigating Officer and his statement has also been recorded and he has also cooperated with the investigation of the case. Accordingly, he has prayed that the interim bail granted to the petitioner No. 1, on 09.05.2023, may be made absolute.

4. On the other hand, learned Additional Public Prosecutor submits that the petitioner no. 1 has not misused his liberty after grant of the interim bail on 09.05.2023. Accordingly, he has raised no objection to the prayer made by the petitioner.

5. So far as regards the petitioner No. 2, Saiful Islam, it is submitted by the learned counsel that petitioner is a 22 years old and he has love affairs with the victim and the victim has voluntarily eloped with the petitioner. So, considering his young age, the privilege of pre-arrest bail may be extended to the petitioner.

6. On the other hand, regarding petitioner No. 2, learned Additional Public Prosecutor has submitted that in the statement of the victim recorded under Section 164 CrPC, the victim girl has implicated the petitioner No. 2, Saiful Islam for forcefully kidnapping her and also committing sexual assault towards her and later on he married another girl and drove the victim out of his house. So, he submits that pre-arrest bail prayer of the petitioner No. 2 may not be considered at this stage.

6. I have heard the submissions made by the learned counsel for both the parties. Also perused the Case Diary along with the statement of the victim, recorded under Section

164 CrPC

7. In view of the facts and circumstances of the case and having regard to the submissions made by the learned counsel for both the parties, this Court is of the opinion that the interim bail order dated 09.05.2023, can be made absolute.
8. Accordingly, interim bail granted to the petitioner No. 1, Nur Salam Sk, on 09.05.2023, is hereby made absolute.
9. However, considering the submissions of the learned counsel for the parties as well as the statement of the victim girl, the prayer made on behalf of petitioner No. 2, Saiful Islam, is hereby rejected at this stage.
10. With the aforesaid observations, this Anticipatory Bail Application stands disposed of.
11. Send back the Case Diary.

JUDGE

Comparing Assistant