

GAHC010103822023



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

Case No. : Bail Appln./1717/2023

MUSFIQUE ALI
S/O LATE MAMTAZ ALI
R/O VILL- PURANI TELAHI
(BURA TELAHI)
P.O. BANGALDHARA
P.S. DHARAMTUL
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE LD. PP, ASSAM

2:MISS RIJU BEGUM
W/O MD. ABDUL HAI
R/O VILL- SATARIBORI
P.S. MIKIRBHETA
P.O. BARANGABARI
DIST. MORIGAON
ASSAM
PIN-78210

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 18.05.2023

Heard Mr. A. Ahmed, learned counsel for the petitioner. Also heard

Mr. D.P. Goswami, learned APP appearing for the State.

2. The petitioner, who was arrested on 29.04.2023, is seeking regular bail under section 439 Cr.P.C. in connection with Dharamtul P.S. Case No. 34/2023, under sections 498A/34 IPC, added section 376(3) IPC, read with sections 6/17 of the POCSO Act and sections 9/10/11 of the Prohibition of Child Marriage Act.

3. The learned APP has opposed the prayer for bail on the ground that the petitioner is accused of marrying a minor girl.

4. From the FIR dated 11.04.2023 and forwarding report dated 29.04.2023, it appears that there is a matrimonial dispute and the daughter of the informant was physically and mentally tortured in the matrimonial home and she is stated to be 7 months pregnant. The date of marriage and the date of birth of the alleged victim girl has not been mentioned either in the FIR or in the forwarding report same and except the statement appeared at Sl. No.2 of the forwarding report that the victim was married when she was a minor.

5. In view of the apparent matrimonial dispute, 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, Musfique Ali in connection with the aforesaid case on furnishing bail bond of Rs.50,000/- with one solvent surety of like amount to the satisfaction of the learned Special Judge, POCSO, Morigaon.

6. Bail is granted on the following conditions:

I. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and

when required.

II. 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.

III. The petitioner shall not obstruct the smooth progress of the investigation/trial.

IV. The petitioner shall not misuse his liberty in any manner.

V. The petitioner shall appear before the I/O within 15 (fifteen) days from the date of his release and he shall continue to appear till his appearance is dispensed with or charge-sheet is filed, whichever is earlier.

7. It is made clear that if the petitioner makes any attempt to intimidate or threaten the informant or any family member of the informant, it would be open to the I/O to approach the jurisdictional Court and apply for cancellation of bail.

8. This application stands disposed of.

JUDGE

Comparing Assistant