

GAHC010122752023



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

Case No. : AB/2023/2023

MAKBEL HUSSAIN @ MOKBEL HUSSAIN
S/OFOICAR SHEIKH @ FAISAR ALI
VILL- KATHALBARI
P.O. PURAN DIARA
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783135

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2023

Heard Mr. M. R. Khandakar, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State.

This case was fixed for case diary as well as statement of victim under Section

164 Cr.P.C. The learned Additional Public Prosecutor submits that same has not yet arrived and no cause has been shown for not furnishing the case diary.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 filed by the petitioner, namely, *Makbel Hussain @ Mokbel Hussain* who is the husband of the alleged victim and who is apprehending arrest in connection with Mankachar Police Station Case No. 70/2023 corresponding to G.R. Case No. 119/2023 under Sections 9/10/11 of the Prohibition of Child Marriage Act read with Sections 6/17 of the POCSO Act, 2012.

The accusation in this case is that on 02.02.2023 one Saber Ali Sarkar lodged an FIR before the Officer-in-Charge of Mankachar Police Station, *inter alia*, alleging that the present petitioner had recently married one girl, aged about 16 years. On receipt of the said FIR, Mankachar Police Station Case No. 70/2023 was registered.

Learned counsel for the petitioner submits that the victim is the wife of the present petitioner and she is living peacefully with her and they have two children, namely, two daughters out of this wedlock. It is also submitted that that the petitioner shall cooperate with the Investigating Officer in case he is granted liberty of anticipatory bail.

On the other hand, learned Additional Public Prosecutor submits that he is unable to make any submission in absence of the case diary and the Investigating Officer has not shown any cause for not furnishing the case diary.

Considering the facts and circumstances of the case, the petitioner, namely, *Makbel Hussain @ Mokbel Hussain* is hereby directed to appear before the Officer-in-Charge of Mankachar Police Station Case No. 70/2023 within a period of ten day from the date of this order. If he does so within the stipulated period of time, in case of his arrest in connection Mankachar Police Station Case No. 70/2023, he shall be allowed to go on bail of Rs.20,000/- (Rupees Twenty Thousand) only with

one surety of like amount to the satisfaction of the Arresting Authority, subject to the condition:

- (i) That the petitioner shall cooperate with the Investigating Officer,
- (ii) That 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 before the trial court.

With the above observation, this instant bail application is hereby disposed of.

JUDGE

Comparing Assistant