

GAHC010130432023



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

Case No. : Bail Appln./2186/2023

AFSADUL MONDAL AND ANR
S/O JAMAT ALI MONDAL
R/O VILL- KATHALDI PART-III
P.S. BILASHIPARA, DIST. DHUBRI, ASSAM

2: JAMAT ALI MONDAL
S/O BELLAL HUSSAIN MONDAL
R/O VILL- KATHALDI PART-III
P.S. BILASHIPARA
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2023

Heard Mr. M. J. Quadir, learned counsel for the petitioners. Also heard Ms.

S. H. Bora, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioners, namely, (1) Afsadul Mondal, and (2) Jamat Ali Mondal, who have been detained behind the bar since 05.05.2023 (73 days) in connection with Bilasipara P.S. Case No. 79/2023 under Section 9, 10 and 11 (i) of the Prohibition of Child Marriage Act, 2006, read with section 4/17 of POCSO Act, 2012, corresponding to G. R. Case No. 96/2022, and Special POCSO Case No. 23/2023, pending before the Court of learned Additional Sessions Judge, Bilasipara.

The accusation in this case is that on 02.02.2023, one Shahanur Alom, lodged an FIR before the Officer In-charge, Bilasipara Police Station, inter-alia, alleging that one Md. Kalam Ali, father of the minor girl who is 16 years of age had forcefully married his daughter to unknown.

On receipt of the said FIR, Bilasipara P.S. Case No. 79/2023 was registered and later on, after completion of investigation, charge-sheet was laid against three persons including the present petitioners and the father of the victim girl, namely, Md. Kalam Ali.

The learned counsel for the petitioners has submitted that the co-accused Md. Kalam Ali has been released on bail by order dated 27.02.2023 passed in Bail Application No. 647/2023.

The learned counsel for the petitioners also submits that girl is now staying with her father and she is not staying with the petitioners so there is no chance of influencing or coercing the girl who may be a witness for the prosecution in the pending POCSO case.

On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioner on the ground that the trial is in its initial stage and the

victim has not yet been examined.

I have considered the submissions made by the learned counsel for both the sides and perused the scanned copy of the case record which is requisitioned from the learned Trial Court.

Considering the fact that the one of the co-accused has already been granted bail by this Court way back on 27.02.2023 and also considering the submissions made by the learned counsel for the petitioner that the victim is not staying with the present petitioners as well as the fact that the petitioners have already undergone 73 days of detention and they are permanent resident of village Kathaldi Part-III under Bilasipara Police Station within the jurisdiction learned Trial Court and they are ready to face trial, their further custodial detention does not appear to be necessary for fair completion of trial of Special POCSO Case No. 23/2023 pending before the Court of learned Additional Sessions Judge, Bilasipara.

In view of the above, the petitioners, (1) Afsadul Mondal, and (2) Jamat Ali Mondal are allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount to the satisfaction of the learned Additional Sessions Judge, Bilasipara subject to the condition that:

1. That the petitioners shall make themselves available before the Trial Court as and when so required by the learned Trial Court.
2. 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 or her from disclosing such facts to the Trial court.

With the above observations, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant