

GAHC010141642023



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

Case No. : AB/2276/2023

HIFZOR RAHAMAN AND 2 ORS
S/O SAFIQR RAHMAN
VILL- FATEHPUR P.O. CHATAL
P.S. KARIMGANJ,
DIST. KARIMGANJ, ASSAM
PIN-788720

2: SHAFEEQR RAHMAN
S/O LATE SARAFAT ALI
VILL- FATEHPUR
P.O. CHATAL
P.S. KARIMGANJ

DIST. KARIMGANJ
ASSAM
PIN-788720

3: JOYTUN NESSA
W/O SAFIQR RAHMAN
VILL- FATEHPUR
P.O. CHATAL
P.S. KARIMGANJ

DIST. KARIMGANJ
ASSAM
PIN-78872

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. I H LASKAR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 10.08.2023

Heard Mr. P. K. Deka, learned counsel for the petitioners. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State.

This instant application under Section 438 of the Code of Criminal Procedure, 1973 has been preferred by the petitioners, namely, (1) *Hifzor Rahaman*, (2) *Shafeequr Rahman* and (3) *Joytun Nessa* who are apprehending their arrest in connection with Karimganj Case No. 395/2023 under Section 365/34 of IPC.

The accusation in this case is that on 22.05.2023, one Khalilur Rahman lodged and FIR before the Officer-in-Charge of Kaliganj Out Post under Karimganj Police Station, *inter alia*, alleging that the accused persons named in the FIR, namely, the present petitioners have, on 21.05.2023, kidnapped the daughter of the first informant as because of marriage proposal of petitioners to marry the daughter of the first informant to their son i.e. the petitioner No. 1 was rejected by the informant on the ground that his daughter was still a minor. On receipt of the said FIR, Karimganj Case No. 395/2023 was registered.

The learned counsel for the petitioner has submitted that by order dated 27.06.2023, petitioner Nos. 2 and 3, namely, *Shafeequr Rahman* and *Joytun Nessa* who are the parents of petitioner No. 1 were granted interim anticipatory bail by this Court and in pursuant to the said order, they have appeared before

the Investigating Officer of Karimganj Case No. 395/2023 and have cooperated in the investigation.

The learned counsel further submits that the petitioner No. 1 was having a romantic relationship with the deceased and he is also a student of Kaliganj Pioneer College pursuing his Bachelors of Arts course there and is a tender age of 22 years on that ground the prayer of anticipatory bail has been made.

On the other hand, learned Additional Public Prosecutor submits that though the petitioner Nos. 2 and 3 have appeared before the Investigating Officer of the case. However, there are incriminating materials against the petitioner No. 1 in this case. She has also pointed out to the statement of the victim recorded under Section 164 of the Cr.P.C. wherein the victim has made serious implications against the petitioner No. 1. It is also submitted that there are materials in the case diary which suggest that even after recovery of the victim girl, the petitioner No. 1 has threatened the victim girl.

I have considered the submissions made by learned counsel for both sides and have gone through the materials before this Court including the case diary of Karimganj Case No. 395/2023.

Considering the fact that the petitioner Nos. 2 and 3, namely, *Shafeequr Rahman and Joytun Nessa* have cooperated with the Investigating Officer in pursuant to the order dated 27.06.2023 passed by this Court, this Court is of considered opinion that their custodial detention may not be necessary for fair completion of the investigation of Karimganj Case No. 395/2023. Hence, the interim anticipatory bail granted to both the petitioners, namely, *Shafeequr Rahman and Joytun Nessa* is hereby made absolute with the conditions Nos. 2 and 3 attached to the interim bail order remaining intact.

However, as there are serious incriminating materials against the petitioner No. 1, namely, *Hifzor Rahaman*, this Court is of considered opinion that this is not a fit case to grant the benefit of a favourable order under Section 438 of Cr.P.C. to the petitioner No. 1, hence, his prayer for grant of anticipatory bail is hereby rejected.

This anticipatory bail application is accordingly disposed of.

Let the case diary be sent back.

JUDGE

Comparing Assistant