

GAHC010232932023



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

Case No. : Bail Appln./3752/2023

MD. BADSHA ALI AND ANR
S/O- MD. HAKIMUDDIN, R/O- VILL.- ROUMARI PATHAR, P.S. TARABARI
,DIST. BARPETA, ASSAM

2: MD. HAKIMUDDIN
S/O- LATE BISA MIYA
R/O- VILL.- ROUMARI PATHAR
P.S. TARABARI
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13.10.2023

Heard Mr. B. Choudhury, learned counsel for the petitioners. Also
heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the

State/respondent.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the petitioners, namely, **Md. Badsha Ali and Md. Hakimuddin**, in connection with **Tarabari P.S. case No. 82/2023(corresponding to G.R No. 1447/2023)**, registered under **Section 9/11 of the Prohibition of Child Marriage Act, 2006 r/w Section 6/17 of POCSO Act. 2012.**

It is submitted by the learned counsel for the petitioners that when the FIR was lodged, the victim is a major girl aged about 19 years. It is also submitted that on 16.05.2022, the petitioner No. 1 got married to the victim girl after getting majority so the provision of POCSO Act does not attract here in this case. The petitioner No. 2 who is the father of the petitioner No.1. The learned counsel for the petitioners has submitted that they have been detained in custody since 04.10.2023. Considering the background of the case, bail may be granted to the petitioners.

In response, Mr. Goswami, learned Additional Public Prosecutor for the State has submitted that he has no objection if the prayer of the petitioners be granted after considering the age of the victim girl.

I have considered the submissions made by the learned counsel for the parties. I have also perused the documents available on record.

It appears that the date of the birth of the victim is 11.02.2004 and got married to the petitioner No. 1 on 16.05.2022. It transpires that the victim was about 18 years of age at the time of marriage with the petitioner No. 1. Considering the above facts, this Court is of the view that further custodial detention of the accused-petitioners are not necessary in the interest of investigation of the case.

In view of above, the petitioners, named above, shall be released on bail in connection with **Tarabari P.S. case No. 82/2023(corresponding to G.R No. 1447/2023)**, registered under **Section 9/11 of the Prohibition of Child Marriage Act, 2006 r/w Section 6/17 of POCSO Act. 2012**, on furnishing bail bond of **Rs.30,000/- each** with **two suitable sureties each** of the like amount, to the satisfaction of learned Special Judge(POCSO), Barpeta, Assam.

The direction for bail is further subject to the conditions that the petitioners:

(a) shall not leave the territorial jurisdiction of learned Special Judge(POCSO), Barpeta, Assam without prior written permission from him/her;

(b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) 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 the Court or to any police officer.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant