

GAHC010235652023



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

Case No. : Bail Appln./3739/2023

ANISUR RAHMAN
S/O- ABDUL HOQUE, VILL.- BHARAL KUNDI PT-8, P.S. JOGIGHOPA, DIST.
BONGAIGAON, ASSAM, PIN- 783389.

VERSUS

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

2:SURESH KUMAR SARMAH
S/O- LATE SOHAN LAL SARMAH SECRETARY- CUM- CHILD PROTECTION
OFFICER
KABAITARY
PANCHAYAT
P.S. JOGIGHOPA
DIST. BONGAIGAON
ASSAM
PIN- 783384

Advocate for the Petitioner : MR A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 19-10-2023

Heard Mr. A.K. Azad, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Additional Public Prosecutor for the State.

2. This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioner, namely, **Anisur Rahman**, in connection with **Jogighopa PS Case No. 255/2023** under Section 6/17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 R/W Section 9/10/11 of the Child Marriage Prohibition Act, 2006.

3. The learned counsel for the accused/petitioner submits that the petitioner has love affairs with the victim girl and accordingly, the girl has been eloped with the petitioner. Thereafter marriage between them was also solemnized and the victim girl is carrying 7 months pregnancy. No allegation has been made against the petitioner by the victim girl or her family member that the petitioner had committed any offence which may come under the POCSO Act.

4. The petitioner was arrested by police on 03.10.2023.

5. The learned Addl. P.P. has opposed in granting bail to the petitioner by stating that the victim girl was minor when the incident occurred, so bail may not be granted at this stage.

6. I have considered the submissions made by the learned counsel for

the parties. I have also perused the case diary including the statement of the victim girl recorded under Section 164 of the Cr.P.C. where the victim stated that she has been eloped with the petitioner and they had love affairs for the last one year. Thereafter they solemnized marriage in presence of Kazi and started living in rented house. Now she has carrying 7 months pregnancy. After staying about 6 months, she returned back to her parents' house.

7. From the statement of the victim girl, there is no allegation against the petitioner that he committed any such offence which false under the provision of POCSO Act.

8. In view of the above, this Court is of the view that the petitioner may be enlarged on bail.

9. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Jogighopa PS Case No. 255/2023** under Section 6/17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 R/W Section 9/10/11 of the Child Marriage Prohibition Act, 2006, on furnishing bail bond of **Rs.30,000/-** with **one suitable surety** of the like amount to the satisfaction of learned Special Judge, North Salmara, Abhayapuri, Assam.

10. The direction for bail is further subject to the following condition that the accused-petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, North Salmara, Abhayapuri, 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.

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

12. Return the case diary.

JUDGE

Comparing Assistant