

GAHC010247722023



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

Case No. : Bail Appln./3965/2023

NAJMUL HOQUE @ NAZMUL HOQUE
S/O HANNAN ALI, R/O VILL-HARIPUR, P.S.-TARABARI, DIST-BARPETA,
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:RILIMA BEGUM @ NILIMA BEGUM
W/O NAJMUL HOQUE
R/O VILL- HARIPUR
P.S.-TARABARI
DIST- BARPETA
ASSA

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM (R1)

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

06.11.2023

Heard Mr. D. Bora, learned counsel for the accused petitioner. Also heard

Mr. K. Baishya, learned Addl. Public Prosecutor, Assam appearing for the State respondent No.1 and Mr. A.R. Khan, learned counsel for the respondent No.2.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Najmul Hoque @Nazmul Hoque** has prayed for grant of bail in connection with **Tarabari PS Case No. 85/2023** under Sections **9/11** of the Prohibition of Child Marriage Act, 2006 read with Sections **6/17** of the Protection of Children from Sexual Offences Act, 2012.

The matter relates to child marriage and marital sexual intercourse.

It is noticed that the accused petitioner has been in judicial custody since 03.10.2023, that is, for 35 days.

Mr. D. Bora, learned counsel for the accused petitioner, submits that the date of birth of the victim is 01.01.2004 and she got married with the petitioner in the last week of January, 2022 and hence, at the time of marriage she was aged about 18 years.

Mr. A.R. Khan, learned counsel for the respondent No.2/victim, by way of filing an affidavit, submits that the victim got married with the accused petitioner in the last week of January, 2022 and since then they have been living peacefully and out of their union a female child was also born on 12.01.2023. Mr. Khan also submits that as the husband of the victim is in jail, she is facing acute financial crisis and having difficulty in looking after her minor child. Therefore, Mr. Khan submits that the victim has no objection if the accused petitioner is released on bail.

Upon consideration of the above submissions made by the learned counsel for both sides and the averments made in the petition along with the documents

annexed therewith, this Court is of the opinion that further continuation of detention of the accused petitioner in the interest of the ongoing investigation may not be required.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.30,000/- (Rupees Thirty thousand) only** with one surety of like amount to the satisfaction of the learned **Special Judge (POCSO Act), Barpeta** subject to the following conditions-

i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and

ii) That the accused 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 to the Police Officer or the Court.

This disposes of the bail application.

JUDGE

Comparing Assistant