

GAHC010247892023



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

Case No. : Bail Appln./3969/2023

OPIYAL ISLAM AND ANR
S/O- LATE SADEK ALI,
R/O- NO-2 GARUGAON,
P.S- BONGAIGAON,
DIST- BONGAIGAON, ASSAM

2: SHAHAJAMAL SHEIKH
S/O- LATE ATABUDDIN SHEIKH
R/O- NO-2 GARUGAON

P.S- BONGAIGAON

DIST- BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:KHALEDA BEGUM
S/O- OPIYAL ISLAM

R/O- NO-2 GARUGAON

P.S- BONGAIGAON

DIST- BONGAIGAON
ASSA

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM (R1)

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 20-11-2023

1. Heard Mr. S Das, learned counsel for the applicants and Mr. K K Parashar, learned Addl. PP, Assam appearing for the state respondent.
2. This application under section 439 of the Code of Criminal Procedure, 1973 is preferred by accused, namely, **1. Opiyal Islam & 2. Shahajamal Sheikh** who were arrested on 03.10.2023 in connection with the **Bongaigaon PS Case No.419/2023** under sections **9/10/11** of the Prohibition of Child Marriage Act, 2006 read with sections **6/17 of** POCSO Act read with section 75 of the JJ Act.
3. The petitioners were arrested on 03.10.2023 and they are behind the bars since then.
4. Learned counsel for the applicants submits that the applicants are innocent and they have been falsely implicated in this case. Investigation is almost over and the accused persons have thoroughly been interrogated by the investigating agency. There is no legal evidence against the present applicants to connect them with the alleged offence. The learned Counsel further submits that the applicants are in custody since 03.10.2023 and the conclusion of trial will take sufficient time. On the aforesaid grounds, prayer is made to release the applicant on bail.
5. Learned Additional Public prosecutor for the state has seriously opposed the application and prayed for its rejection.
6. Looking at the facts and circumstances of the case that the FIR has not been lodged either by the victim or by the guardian of the victim and also considering the period of detention and without commenting

anything on the merits of the case, this Court is of the opinion that no further custodial interrogation/detention is required. Accordingly, the present application is allowed.

7. It is directed that the applicants, above named, in connection with the aforementioned case be released on bail on their furnishing a bond in the sum of Rs.30,000/- (Rupees thirty thousand Only) each with one solvent surety of the like amount to the satisfaction of the learned Special Judge, Bongaigaon, Assam, with the following conditions:

I. The applicants shall not leave the territorial jurisdiction of the aforesaid police station without prior written permission from its officer in charge;

II. The applicants shall not hamper with the investigation of the case and tamper with the evidence of the case;

III. The applicants 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 them from disclosing such facts to the court or to any police officer.

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

JUDGE

Comparing Assistant