

GAHC010277822023



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

Case No. : Bail Appln./4495/2023

SANIDUL ISLAM @ GUDU
S/O LATE TAYEB ALI
R/O VILL- NO. 3 JARAGURI, P.S. MANIKPUR, DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE PP, ASSAM

2:ASHOK KR. BASUMATARY
SO SUBASH BASUMATARY
VILL- HAPACHARA, P.S. AND DIST. BONGAIGAON
ASSAM, PIN-783392

3:RAMJAN ALI (VICTIM'S FATHER)
S/O- RAHMAT BHUYIA
VILL- NO.3 TARAGRI
PS- MANIKPUR, DISTRICT- BONGAIGAON
ASSAM, PIN- 78339

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

21.12.2023

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. P.

Borthakur, learned Additional Public Prosecutor, Assam and Mr. K.R. Patgiri, learned counsel for the respondent No.3/the father of the victim.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sanidul Islam @ Gudu, who has been detained behind the bars since 03.10.2023 (for last 81 days) in connection with Special (P) Case No.124(M)/2023 arising out of Manikpur P.S. Case No.183/2023 under Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006 read with Sections 6/17 of the POCSO Act, 2012 and Section 376 of the Indian Penal Code.

The gist of accusation in this case is that on 03.10.2023, one Ashok Kr. Basumatary had lodged an FIR before the Officer-In-Charge of Manikpur Police Station, *inter-alia*, alleging that the petitioner married a 16 year old girl and therefore, violation of Prohibition of Child Marriage Act, 2006 has been committed.

Learned counsel for the petitioner has submitted that the charge-sheet was laid in this case on 31.10.2023 and Special (P) Case No.124(M)/2023 is pending before the Court of learned Special Judge, Bongaigaon at the stage of consideration of charge. It is further submitted by the learned counsel for the petitioner that the petitioner is the husband of the victim girl and in the meanwhile, the victim has delivered a baby on 10.11.2023 and presently, the victim is residing with her own father.

Learned counsel for the respondent No.3 who is the father of the victim, has also submitted that the victim is presently residing with the respondent No.3 and he does not have any objection if the bail is granted to the present petitioner.

On the other hand, learned Additional Public Prosecutor, Assam has submitted that though there are incriminating materials against the present petitioner, however, custodial detention of the petitioner may not be necessary if he co-operates in his trial.

Considering the submissions made by learned counsel for the parties as well as considering the fact that the petitioner has been detained behind the bars for last 81 days, his custodial detention does not appear to be necessary if he otherwise

cooperates in the investigation.

In view of above, the petitioner, namely, Sanidul Islam @ Gudu is hereby allowed to go on bail of Rs.30,000/- with one surety of like amount subject to the satisfaction of the learned Special Judge, Bongaigaon with the following conditions:

- (i) that the petitioner shall co-operate in the investigation;
- (ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer or Police Officer or to any Court.

The instant bail application is accordingly disposed of.

Send back the case diary.

JUDGE

Comparing Assistant