

GAHC010280282023



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

Case No. : Bail Appln./4512/2023

JIBAN KALITA
S/O SRI BRIJENDRA KALITA,
R/O NO. 2 CHANDRAPUR, P.S.- PRAGJYOTISHPUR, DIST.- KAMRUP (M),
ASSAM.

VERSUS

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

2:SRI BIJAY CHAORA
SON OF LEBI CHAORA
RESIDENT OF VILLAGE-LONGBUI CHAORA
P.O-JALJURI
P.S-BOITHALANGCHU
DISTRICT-KARBI-ANGLONG
ASSAM
PIN-78248

Advocate for the Petitioner : MR. D CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 21.12.2023

- 1.** Heard Mr. T. Chakraborty, learned counsel for the petitioner. Also heard Mr. S. Deka, learned counsel for the respondent no. 1 as well as Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.
- 2.** This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Jiban Kalita, who has been detained behind the bars since 25.11.2023 in connection with Pragjyotishpur P. S. Case No. 155/2023 under section 6/7 of the POCSO Act 2012 read with Section 9/10/11 of the Prevention of Child Marriage Act, 2006.
- 3.** The gist of accusation against the present petitioner is that on 24.11.2023 one Arup Kumar Das who is the Secretary of the Chandrapur Gaon had lodged an FIR before the Officer-in-Charge of the Pragjyotishpur Police Station, *inter-alia*, alleging that through reliable sources, the informant has come to know that the petitioner has married a minor girl who is also pregnant for three months. On receipt of the said information, Pragjyotishpur P. S. Case No. 155/2023 was registered.
- 4.** Learned counsel for the petitioner has submitted that the victim is the wife of the present petitioner and she is carrying four months of pregnancy and it is submitted that custodial detention of the present petitioner would not be necessary as the petitioner is ready to cooperate in the investigation in all manner.
- 5.** On the other hand, Mr. S. Deka, learned counsel for the respondent no.2, who is the father of the victim has also submitted that the informant does

not have any objection and the victim is residing at her father's house.

6. Learned Additional Public Prosecutor has fairly admitted that though it appears to be a case under Prohibition of Child Marriage Act, 2006, however, custodial detention does not appear to be necessary in fair completion of the investigation of the Pragjyotishpur P. S. Case No. 155/2023.

7. Considering the submissions made by learned counsel for the parties before the Court, this Court is of the considered opinion that further custodial detention of the petitioner does not appear to be necessary for fair completion of the investigation of the Pragjyotishpur P. S. Case No. 155/2023

8. In view of the above-named petitioner is hereby directed to be released on bail of Rs. 30,000/- (Rupees Thirty Thousand only), with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup, Metro subject to the following conditions:

- i. That the petitioner shall cooperate in the investigation;
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to 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.

9. With the above observations, this bail application is hereby disposed of.

JUDGE

Comparing Assistant