

GAHC010014862024



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

**Case No. : AB/200/2024**

MD. ABDUL KALAM BARBHUIYA @ MD. JOYNAL UDDIN BARBHUIYA @  
KALAM UDDIN BARBHUIYA  
VILLAGE- BORHAILAKANDI PART-II, P.O.BORHAILAKANDI. P.S. AND DIST.  
HAILAKANDI, ASSAM.

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PP, ASSAM

**Advocate for the Petitioner** : MR. A M BARBHUIYA  
**Advocate for the Respondent** : PP, ASSAM

**BEFORE**  
**HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

**21.03.2024**

Heard Mr. A.M. Barbhuiya, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam for the State respondents.

This is an application under Section 438 Cr.P.C. praying for granting pre-arrest bail to the petitioner, namely, **Md. Abdul Kalam Barbhuiya @ Md. Joynal Uddin Barbhuiya @ Kalam Uddin Barbhuiya**, who has been apprehending arrest in connection with **Hailakandi Police Station Case No.283/2023** registered under Section 366 IPC (G.R. Case No.1230/2023).

This Court vide order dated 30.01.2024 granted interim pre-arrest bail to the petitioner subject to conditions.

Today, learned Additional Public Prosecutor submits that the victim girl, who is aged about 14 years 9 months, has not been recovered and therefore, further investigation of the case cannot be carried out.

Mr. Barbhuiya, learned counsel for the petitioner submits that the victim girl and the petitioner have already got married and they are living together.

I have considered the submissions made at the Bar and perused the materials available on record.

It appears from the materials available in the case diary that the birth certificate, annexed as Annexure-2 to the anticipatory bail application, which was procured after the date of the incident, i.e. 29.10.2023 showing the date of birth of the victim as 02.09.2005, may not be correct, inasmuch as, the school transfer certificate of the victim collected by the Investigating Officer reflects her date of birth as 01.01.2009. As such, the victim is 14 years 9 months old. Since the victim girl has not yet been recovered by the Investigating Officer, the interim pre-arrest bail granted to the petitioner on 30.01.2024 is hereby cancelled.

Accordingly, the prayer for pre-arrest bail is rejected.

With the aforesaid observations, this anticipatory bail application is disposed of.

Send back the case diary.

**JUDGE**

**Comparing Assistant**