

GAHC010121372024



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

Case No. : AB/1605/2024

MD. OMAR ALI SEIKH
S/O LATE ABDUL KADIR, VILL- SECONEE PATHAR, P.S.-
JAKHALABANDHA, DIST- NAGAON, ASSAM

VERSUS

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

2:(VICTIM)
D/O HASSAN ALI
VILL- SECONEE PATHAR
P.S.-JAKHALABANDHA
DIST- NAGAON
ASSA

Advocate for the Petitioner : MR A NATH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.06.2024

- 1.** Heard Mr. G. Borah, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.
- 2.** This application has been preferred under Section 438 of Code of Criminal

Procedure, 1973, by the petitioner, namely, Md. Omar Ali Seikh, who is apprehending his arrest in connection with Special POCSO Case No. 283/2023 corresponding to Jakhalabandha Case No. 28/2023.

3. Learned counsel for the petitioner has submitted that in the Jakhalabandha Case No. 28/20233, which was registered under Section 9/10/11(1) of the Prohibition of Child Marriage Act, 2006 read with Section 6/17 of the POCSO Act, 2012, charge sheet was laid against the present petitioner as well as one another co-accused who was the father of the petitioner and he had already died.

4. Learned counsel for the petitioner has submitted that by order dated 06.04.2024, the Trial Court has issued non-bailable warrant of arrest to the above named petitioner. However, the petitioner has not received any summons from the said Court.

5. Learned counsel for the petitioner has submitted that the petitioner is the husband of the victim girl and presently, the victim and the petitioner are residing together as husband and wife.

6. Learned counsel for the petitioner has also submitted that the petitioner is ready to face the trial.

7. However, as non-bailable warrant of arrest has been issued against him by the Trial Court, he is apprehending arrest at any moment.

8. Considering the submissions made by learned counsel for the petitioner as well as considering the facts and circumstances of this case, the petitioner is allowed to appear before the Trial Court within a period of 15 days of the date of this order, and if he is arrested during this period on the strength of the non-bailable warrant of arrest issued by the Trial Court, he shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount, subject to the satisfaction of learned Additional Sessions Judge No. 1 cum Special Judge POCSO, Nagaon, Assam, with a condition that he should cooperate in the trial and shall not in any manner directly or indirectly influence the listed witnesses or any other person who

may be acquainted with the facts of the case, so as to dissuade such persons from deposing against him in the pending trial against him.

9. If he is not arrested within a period of 15 days, the petitioner may seek any relief before the Trial Court on his appearance before such Court.

10. With the above observation, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant