

GAHC010128652023



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

Case No. : AB/2089/2023

NAIS SULTANA AND ANR
D/O- MD. MOHSEN ALI, PH- 6001662889, R/O- BORIJANI, P.S. HAJO, P.O.
PACHARIA, DIST.- KAMRUP, ASSAM- 781102

2: MUSTAKUR RAHMAN @ MD. ABDUL MUSTAK
S/O- MD. ATOWAR RAHMAN
PH- 9864899079
R/O- BORIJANI
P.S. HAJO
P.O. PACHARIA
DIST.- KAMRUP
ASSAM- 78110

VERSUS

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

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.02.2024

Heard Mr. P. Doley, learned counsel for the applicants. Also heard Mr. B. Sarma,

learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Hajo P.S. Case No.401/2023, under Section 365/34 IPC, this application under Section 438 Cr.P.C. is preferred by two applicants, namely, Nais Sultana and Mustakur Rahman @ Md. Abdul Mustak, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Azizur Rahman on 02.06.2023. The essence of allegation made in the aforesaid FIR is that on 01.06.2023 one Abdul Mustafa having conspired with one Mohsen Ali and Mabilia Bibi, kidnapped his wife Nais Sultana.

4. Mr. Doley, learned counsel for the applicants submits that the applicants were granted the privilege of interim pre-arrest bail by this Court vide order dated 14.06.2023 and pursuant to the said order, they have appeared before the I.O. and cooperating with the investigating agency and in the interest of investigation, further custodial interrogation may not be required and therefore, it is contended to make the interim order dated 14.06.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary, but as per his instruction received by him, the I.O. is on leave. Mr. Sarma, producing one letter of the Officer-in-Charge, Hajo P.S., submits that another long date may be given to produce the case diary.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the order dated 15.02.2024, passed by this Court. In the order dated 15.02.2024, it is provided that in the event of failing to produce the case diary before this Court today, the Court will proceed to hear and dispose of the matter without the case diary. Accordingly, it is decided to dispose of this application without perusing the case diary.

7. It is not in dispute that the applicants were granted the privilege of interim pre-arrest bail vide order dated 14.06.2023. And it is the categorical submission of the learned

counsel for the applicants that pursuant to the said order, they have appeared before the I.O. and cooperating with the investigating agency. Further, it appears from the contention made in the petition that there was love affairs between the applicant Nos.1 and 2 and at her own will the applicant No.1 eloped with the applicant No.2 and that her marriage with the informant was solemnized without her consent and against her will.

8. Having considered above and also considering the nature and gravity of the offence and the punishment prescribed for the same, this Court is inclined to make the interim order dated 14.06.2023, absolute, in the same terms and conditions.

9. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant