

GAHC010157372023



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

Case No. : AB/2515/2023

ABDUR RASHID SARKAR
S/O LT. JOHIRUDDIN SHEIKH
R/O VILL- SOKSOKA/AREYARJHAR PART-III, P.S. CHAPAR,
DIST. DHUBRI, ASSAM, PIN-783371

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

15.02.2024

Heard Mr. S. Biswas, learned counsel for the applicant and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Chapar P.S. Case No. 19/2023**, under Sections 09/10/11(1) of the PCM Act and read with Section 17 of the PCOSO Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Abdur Rashid Sarkar** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R. lodged by one Abu Horaira Ahmed, on 02.02.2023. The essence of allegation made in the FIR is that the applicant has solemnized a marriage of a girl child namely, Smti 'X' (name withheld), with an adult person namely, Saidul Islam and used to collect hefty amount of money for such rituals, at different places across the State and in other State also.

4. Mr. Biswas, learned counsel for the applicant submits that the applicants are innocent and no way involved with the offence alleged in the FIR. Mr. Biswas further submits that after completion of the investigation the IO has submitted charge sheet against the applicant, under Sections 10/11(1) of the PCM Act and read with Section 75 of the JJ Act, by showing the applicant as absconder in the charge sheet. Mr. Biswas also submits that the applicant is ready to face the trial and he will appear before the learned court below on each and every date and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor has opposed the application and submits that the applicant is the person who has solemnized the child marriage and the case has been registered under Section 17 of the POCSO Act also, along with some other Sections of PCM Act.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record.

7. Since the applicant has undertaken to face the trial and to appear before the learned court below on each and every date, this Court is inclined to allow this application by directing the applicant to appear before the learned court below on or before 01.03.2024, and to apply for regular bail and in event of filing such an application, the learned Court below shall consider the same in accordance with law.

8. Till then, in the event of arrest of the applicant, in connection with the **Chapar P.S. Case No. 19/2023**, under Sections 09/10/11(1) of the PCM Act and read with Section 17 of the PCOSO Act, he shall be enlarged on pre-arrest bail, on his

executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall appear before the learned court below on or before **01.03.2024**;

(ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iii) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Dhubri**, without prior permission.

10. In terms of this AB stands disposed of.

JUDGE

Comparing Assistant