

GAHC010232942023



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

Case No. : AB/3528/2023

ABIDUR RAHMAN AND ANR
SON OF JAINUDDIN ,RESIDENT OF VILLAGE- BALABARI, P.O- BALABARI,
P.S- DHULA, DISTRICT- DARRANG, ASSAM. PIN - 784146

2: JAINUDDIN
SON OF - LATE SAIDUR RAHMAN BOTH ARE RESIDENTS OF VILLAGE-
BALABARI
P.O- BALABARI
P.S- DHULA
DISTRICT- DARRANG
ASSAM
PIN - NO-- 78414

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:FAIJUR RAHMAN
S/O- ABDUL KALAM AZAD
VILL AND P.O-BALABARI
P.S.- DHULA
DISTRICT- DARRANG
ASSA

Advocate for the Petitioner : MR. A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 09-01-2024

1. Heard Mr. S. Islam, learned counsel for the petitioner *Abidur Rahman and Jainuddin*. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.
2. The respondent No. 2 is not represented today.
3. The petitioners have filed this application under *Section 438* of the *Code of Criminal Procedure* with prayer for pre arrest bail as they are apprehending arrest in connection with *Dhula Police Station Case No. 216/2023* under *Section 468* of the *Indian Penal Code R/W Sections 6/9/10/11(1) of Protection of Child Marriage Act, 2006*.
4. I have considered the submissions at the bar.
5. It is submitted that the petitioner No. 1 is the husband of the victim. This case does not fall under POCSO Act or under the Protection of Child Marriage Act as the victim was an adult at the time of her marriage. The Aadhaar Card and PAN Card marked as Annexures-B and C reveal that the date of birth of the victim is 01.10.2003.
6. I have perused the Aadhaar Card and PAN Card annexed along with the petition.
7. I have considered the submissions that there is no allegation of sexual assault against the present petitioners and no case under the POCSO Act is made out. The petitioner No. 2 is the father of the petitioner No. 1 and the father-in-law of the victim. I have perused the case diary. It appears that the custodial interrogation may not be required in connection with this case. This is

case under Protection of Child Marriage Act, 2006.

8. Considering all aspects, petition is allowed.

9. In the event of their arrest, the petitioners are enlarged on bail on furnishing a bail bond of *Rs.50,000/- (Rupees Fifty Thousand)* each with a suitable surety of like amount to the to the satisfaction of arresting authority under the conditions:

i. That the petitioners shall appear before the Investigating Officer within ten days and cooperate with the investigation.

Send back the case diary.

Anticipatory Bail application stands disposed of in the above terms.

JUDGE

Comparing Assistant