

GAHC010243412023



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

Case No. : AB/3660/2023

SHAHIDUL ISLAM @ SAHIDUL ISLAM
S/O AZADUL HOQUE
R/OVILL- PURAN FALIMARI
BANGALIPARA PT.II
P.O. AND P.S. BILASIPARA, DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:MEHBUB ALI
S/O LATE MOKSHED ALI
SECRETARY OF MASPARA SONKOSH GAON PANCHAYAT
P.O. MASPARA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR G U AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.02.2024

Heard Mr. M.Z. Shah, learned counsel for the applicant and also heard Mr. B.

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

2. Apprehending arrest in connection with Bilasipara P.S. Case No.379/2023, under Section 9/11(ii) of the Prohibition of Child Marriage Act, 2006, read with Section 6/17 of the POCSO Act, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Shahidul Islam @ Sahidul Islam, 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 Mehbub Ali on 03.10.2023. The essence of allegation made in the aforesaid FIR is that one Smt. X (name withheld), aged 16 years, was forcefully married to a child bride, namely, Sahidul Islam, S/o Azadul Hoque of Puran Falimari, Bangalipara Part-II and consequently subjected her to regular sexual assault and the family members of the girl and her husband had abetted the child marriage and the sexual offence.

4. Mr. Shah, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail by this Court vide order dated 19.10.2023, and pursuant to the said order, he had appeared before the I.O. and cooperating with the investigating agency and that the applicant is innocent and no way involved with the offence alleged in the FIR and therefore, a contention is being made to make the interim order dated 19.10.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, obtaining necessary instruction, submits that the I.O. has completed investigation and submitted charge-sheet, being Charge-Sheet No.462/2023, dated 30.10.2023, under Section 9/11(i) of the Prohibition of Child Marriage Act, 2006, read with Section 6/17 of the POCSO Act, against the present applicant.

6. In view of the submission of learned Advocates of both sides, this Court is inclined to dispose of this anticipatory bail application by directing the applicant to appear before the learned Court below on or before 06.03.2024, and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in

accordance with law. Till then, interim order dated 19.10.2023, stands extended.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant