

GAHC010244842023



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

Case No. : AB/3668/2023

MIR HUSSAIN AND ANR.
SON OF KHALIL UDDIN SHEIKH, RESIDENT OF VILLAGE- RAJAPARA
PART-II, P.S. BAGARIBARI, DIST- DHUBRI, ASSAM PIN - 783349

2: KHALIL UDDIN SHEIKH
SON OF ATAB UDDIN SHEIKH
RESIDENT OF VILLAGE- RAJAPARA PART-II
P.S. BAGARIBARI
DISTRICT- DHUBRI
ASSAM
PIN - 78334

VERSUS

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

2:ABU BAKKAR SIDDIQUE
SON OF LATE AJIMUDDIN
R/O VILL- HORDEMARA
P.S- CHAPAR
DISTRICT- DHUBRI
ASSAM
PIN - 78337

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 16.02.2024

Heard Mr. D. Bora, learned counsel for the applicants and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Chapar P.S. Case No. 200/2023, under Sections 9/ 10/ 11(1) of the Prohibition of Child Marriage Act, read with Sections 6/ 17 of the POCSO Act, this application, under Section 438 Cr.P.C. is preferred by the two applicants, namely, (1) Mir Hussain and (2) Khalil Uddin Sheikh, for grant of pre-arrest bail.

3. It is to be noted that the above noted case has been registered on the basis of an FIR lodged by one Abubakkar Siddique on 03.10.2023. The essence of allegation made in the aforesaid FIR is that in the year, 2020 as per the advice of one Soleman Ali of Arimari Village of Dhubri District, the marriage of minor daughter of Meser Ali, namely Smti 'X' was solemnized with one Mir Hussain, and now they are living together as husband and wife.

4. Mr. Bora, learned counsel for the applicant submits that the applicants are on interim pre- arrest bail, granted by this Court vide order dated 19.10.2023, and pursuant to the said interim pre-arrest bail order, the applicants have appeared before the I.O. and have cooperating with the investigating agency. Therefore, he submits that the interim pre-arrest bail order dated 19.10.2023 may be made absolute under the same terms and conditions.

5. On the other hand, Mr. Baruah, learned Additional Public Prosecutor, appearing for the State respondent has submitted that he has received instruction from the Officer-in-Charge of Chapar Police Station that the I.O. has completed the investigation and has submitted charge sheet, being C.S. No. 203/2023, dated 28.10.2023 under Sections 9/ 10/ 11(1) of the Prohibition of Child Marriage Act, read with Sections 6/ 17 of the POCSO Act.

6. In view of the above submissions of the learned advocate, this Court is inclined to dispose of this bail application with a direction to the applicants to appear before the trial court on or before 01.03.2024, and to file a petition seeking regular bail and in the event of filing such bail application, the same shall be considered and disposed of by the learned trial Court in accordance with law.

7. The interim order passed on 19.10.2023 shall continue till 01.03.2024.

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

JUDGE

Comparing Assistant