

GAHC010291582023



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

Case No. : AB/4364/2023

JEHERUL ISLAM
S/O LATE HANIT ALI
VILL- KUWARIPUKHURI
P.O. AND P.S. KHARUPETIA
DIST. DARRANG, ASSAM

VERSUS

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

2:NAZRUL ISLAM
S/O NIZAM UDDIN
VILL AND P.O. BEEHIMARI DALGAON
DIST. DARRANG
ASSAM
PIN CODE- 78411

Advocate for the Petitioner : MRS. R RONGMEI
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15-02-2024

Heard Ms. R. Rongmei, learned counsel for the applicant. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent, Ms. N.

Boro, learned counsel for the informant and Mr. M. A. I. Hussain, learned counsel for the respondent No.2

Apprehending arrest in connection with Kharupetia P.S. Case No. 224/2023, under Sections 9/10/11(I) of Prohibition of Child Marriage Act, R/W Section 6/17 of POCSO Act, this application u/s 438 Cr.P.C. is preferred by applicant, namely, Sri Jeherul Islam, for grant of pre-arrest bail.

The said case has been registered on the basis of an F.I.R., lodged by one Nazrul Islam on 13.12.2023.

The essence of allegations made in the FIR dtd. 13.12.2023 is that one Jeherul Islam has forcefully married to a minor girl namely, Smt.'X' aged 16 years which took place in support of the relatives of the girl and the accused , both.

Ms. Rongmei, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. has produced the case diary before this Court and submits that the age of the victim girl is below 18 years.

On the other hand, learned counsel for the informant as well as the victim girl submits that they have no objection in the event of allowing this application. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Addl. P.P.

In view of the materials collected so far in the case diary, specially the statement of the victim girl recorded u/s 164 Cr.P.C., this Court is of the view that a prima facie for granting the privilege of pre-arrest bail is made out in

favour of the applicant and accordingly, it is provided that in the event of arrest of the applicant, in connection with Kharupetia P.S. Case No. 224/2023, under Sections 9/10/11(I) Prohibition of Child Marriage Act, R/W Section 6/17 of POCSO Act, he shall be released on pre arrest bail, on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

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

1. That the applicant shall appear before the I.O as and when required.
2. 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 her from disclosing such facts to the Court or to any police officer; and
3. That the applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Darrang, Mangaldoi, without prior permission.

JUDGE

Comparing Assistant