

GAHC010023422024



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

Case No. : AB/277/2024

SUMO ALI @ MD. SUMO ALI
S/O MD. NOOR ISLAM
VILL- JAYANTIPUR
P.S. KALIABOR, DIST. NAGAON, ASSAM

VERSUS

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

2:MS. SWEETY BEGUM
D/O MD. MOZIB ALI
VILL- JAYANTIPUR
P.S. KALIABOR
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR. P RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.03.2024

Heard Mr. P. Rahman, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Sumo Ali @ Md. Sumo Ali, who has been apprehending arrest in connection with Kaliabor P.S. Case No.10/2023, under Section 376(2)(n) IPC, read with Section 6/17 of the POCSO Act, read with Section 9/10/11(1) of the Prohibition of Child Marriage Act, 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 Partha Pratim Singkon of Kaliabor P.S., on 02.02.2023. The essence of allegations made in the aforesaid FIR is that one Md. Sumo Ali, with the assistance of his family members, forcibly married a minor girl, namely, Smt. X (name withheld) of village Jayantipur and the family members of the minor girl too supported their marriage and that the victim girl has given birth of a baby at the age of 17 years.

4. Mr. Rahman, learned counsel for the applicant submits that the victim girl is living with the applicant as husband and wife and that they are blessed with a baby also and that the I.O. has already completed the investigation and submitted charge-sheet before the learned Court below and the applicant will appear before the learned Court below on each and every date and therefore, it is contended that the applicant may be granted the privilege of pre-arrest bail.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, also submits that the I.O. has collected some materials in support of the allegation made in the FIR and that the victim girl is also living with the applicant and they are blessed with a child and in view of the materials collected in the case diary, Mr. Sarma submits that this is not a fit case to grant the privilege of pre-arrest bail.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. In view of the submission of learned Advocates of both sides and in view of the fact that the I.O. has already submitted charge-sheet before the learned Court below, 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 **28.03.2024** 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.

8. Till then, considering the submission of learned Advocates of both sides and also considering the facts and circumstances on the record, it is provided that in the event of arrest of the applicant, namely, Sumo Ali @ Md. Sumo Ali, in connection with Kaliabor P.S. Case No.10/2023, under Section 376(2)(n) IPC, read with Section 6/17 of the POCSO Act, read with Section 9/10/11(1) of the Prohibition of Child Marriage Act, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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) The applicant shall not leave the jurisdiction of the learned S.D.J.M.(M), Kaliabor, without prior permission.

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

10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant