

GAHC010023672024



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

Case No. : Bail Appln./349/2024

ASMA BIBI
W/O LATE JEJJAK MIYA SK.
VILL- CHIKIBIKI, P.O. BILASPUR,
P.S. AND DIST. BONGAIGAON, ASSAM

VERSUS

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

2:ASANUR SK.
(ELDER BROTHER OF THE VICTIM MISS EJADAS BEGUM BEING MINOR)
S/O LATE REJJAK MIYA SK.
VILL- CHIKIBIKI
P.O. BILASPUR
P.S. AND DIST. BONGAGIGAON
ASSAM
PIN-78337

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

19.02.2024

Heard Mr. M. Khan, learned counsel for the accused. Also heard Mr. R.J. Baruah,

learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1 and Mr. A. Rahman, learned counsel for the respondent No.2.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Asma Bibi, who has been languishing in jail hazot since 29.01.2024, in connection with Special (P) Case No.142(BNG)/2023, arising out of Bongaigaon P.S. Case No.61/2023, under Section 17 of the POCSO Act, read with Section 9/10 of the Prohibition of Child Marriage Act, 2006, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by UBC Khandakar Jamal of Bidyapur Out Post under Bongaigaon P.S. on 02.02.2023. The essence of allegation made in the aforesaid FIR is that one 16 years old girl, namely, Smt. X (name withheld) of village Bilaspur Takuamari under Bongaigaon P.S. forcefully married to a man, namely, Anowar Hussain of village Bilaspur Bagulamari and during enquiry, he came to know that the marriage took place in traditional manner in presence of relatives of the both the victim and of the groom. The allegation against the accused is that she is the mother of the victim, who was present during solemnization of marriage of her minor daughter.

4. Mr. Khan, learned counsel for the accused, submits that the accused was arrested on 29.01.2024 and since then, she has been languishing in jail hazot for last 22 days and she is the mother of the victim girl and there is no allegation against her and that the case has already been charge-sheeted and that she is ready to face trial and therefore, it is contended to allow this petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that scanned copy of the record has not yet been received and perusal of the same is necessary to decide this bail application.

6. Whereas, Mr. Rahman, learned counsel for the respondent No.2 submits that he has no objection in the event of granting bail to the present accused.

7. Having heard the submission of learned Advocates for both sides, I have carefully

gone through the petition and the documents placed on record.

8. It appears that the accused has been languishing in jail hazot for last 22 days since 29.01.2024. The allegation against the accused is that she is the mother of the victim girl and she remained present at the time of solemnization of marriage of her minor daughter with the groom.

9. Having considered the nature and gravity of the offence and the punishment prescribed for the same as well as the role played by the accused and also considering the period of detention, this Court is of the view that her further custodial detention may not be required in the interest of investigation and accordingly, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Special Judge, POCSO, Bongaigaon, in connection with Special (P) Case No.142(BNG)/2023, arising out of Bongaigaon P.S. Case No.61/2023, under Section 17 of the POCSO Act, read with Section 9/10 of the Prohibition of Child Marriage Act, 2006, the accused, namely, Asma Bibi, be enlarged on bail.

10. In terms of above, this bail application stands disposed of.

**Sd/- Robin Phukan
JUDGE**

Comparing Assistant