

GAHC010000592026



2026:GAU-AS:2812

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

Case No. : AB/59/2026

SHAJAHAN ALI
S/O LATE NUR ISLAM
VILL- CHAR KUKURMARA, P.S.MANKACHAR, DIST. SOUTH SALMARA
MANKACHAR, ASSAM, PIN-783131

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE LEARNED PP, ASSAM

2:SALEKA BEGUM
W/O BABLU SK.
VILL- CHAR KUKURMARAP.O. RADHAMADHAB HAT
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM PIN-78313

Advocate for the Petitioner : MR. M ISLAM,

Advocate for the Respondent : PP, ASSAM, MS J AKTAR (R-2),MR. M KHAN (R-2)

BEFORE
HON'BLE MR. JUSTICE RAJESH MAZUMDAR
ORDER

23.02.2026

Heard Mr M Islam, learned counsel appearing for the petitioner. Also heard Mr B Sharma, learned Additional Public Prosecutor for the State of Assam and Mr M Khan, learned counsel appearing for the respondent No. 2.

2. This anticipatory bail application has been filed under Section 482 of the BNSS, 2023, praying for privilege of pre-arrest bail to the accused/petitioner, namely, Sahajahan @ Shajahan Ali, in connection with Special (P) Case No. 299/2024, under Sections 120(b)/354(d)/34 of the Indian Penal Code, 1860, read with Section 13 of the POCSO Act, 2012 (as amended), pending before the learned Special Judge, South Salmara, Mankachar, arising out of Mankachar PS Case No. 589/2021 (GR Case No. 806/2021).

3. Mr Islam has submitted that the case has already been charge sheeted and since the allegations of POCSO have been levelled in the charge sheet, the petitioner apprehends that he may be arrested on his appearance before the learned Trial Court. It is further submitted that the petitioner had attempted to appear before the learned Trial Court on different occasions, however, his absence, despite cause being shown, had not been condoned by the learned Trial Court, and ultimately, on 10.09.2025, NBWA has been issued against the petitioner.

4. The learned counsel for the petitioner has submitted that the petitioner would participate in the trial proceedings. He further submits that a perusal of the FIR would show that no overt act has been attributed to the petitioner to show his involvement in the allegations levelled by the informant against the other two accused.

5. The scanned copies of the Trial Court Record as called for have been received and perused.

6. The learned Additional Public Prosecutor has submitted that this Court would not like to entertain the petition praying for pre-arrest bail under the facts and circumstances of the present case, where NBWA has been issued against the petitioner for his non-appearance and non-cooperation in the trial.

7. Learned counsel for the respondent No. 2, Mr M Khan has submitted that the petitioner has approached this Court under the wrong provisions of law, and therefore,

the anticipatory bail should not be granted. He has further prayed that the petitioner should be directed to appear before the learned Trial Court and pray for recall of the NBWA.

8. We have gone through the different records and also the submissions made by the learned counsels appearing for the parties.

9. We have noticed that the charge sheet has been submitted even without the petitioner having been taken into custody, during the period of investigation.

10. In the facts and circumstances of the case, this Court is of the opinion that custodial interrogation of the petitioner may not be necessary to stand trial. However, keeping in view that the ingredients of POCSO Act has been made in the charge sheet, this Court is of the opinion that the ends of justice would be served, in the event, the petitioner is required to appear before the learned Trial Court to pray for regular bail, in view of the circumstances that the charge sheet or the FIR does not level any overt act on the part of the petitioner.

11. Accordingly, it is directed that the petitioner shall appear before the learned Trial Court on the next date fixed, i.e., on 09.03.2026, and pray for regular bail. In the circumstances observed hereinabove, if the petitioner is arrested prior to that date, he shall be released on bail on furnishing a bail bond of Rs.15,000/- (Rupees Fifteen Thousand Only), with 2 (two) sureties of the like amount to the satisfaction of the arresting authority.

12. The observations are only *prima facie*, and the learned Trial Court would be entitled to look into the various aspects as to whether petitioner's custody is required during the trial.

13. Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant