

GAHC010005422023



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

Case No. : AB/81/2023

ABED ALI AND ANR
S/O- LATE KURPAN, R/O- TUMNI LAWKHOWA, P.S. SOUTH SALMARA,
DIST. SOUTH SALMARA, MANKACHAR, ASSAM

2: ANOWARA KHATUN
W/O- ABED ALI
R/O- TUMNI LAWKHOWA
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA
MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 07-02-2023

1. Heard Mr. HRA Choudhury, learned Senior Counsel assisted by Mr. A. Ahmed,

learned counsel for the petitioners and Mr. B. Sharma, learned Addl. P.P. for the Respondent State of Assam.

2. The petitioners namely [1] Abed Ali and [2] Anowara Khatun have filed an application under Section 438 Cr.P.C. with prayer for pre-arrest bail as they are apprehending arrest in connection with South Salmara P.S. Case No. 337/2022 under Sections 120(B)/302 IPC.

3. I have considered the submissions at the Bar and I have perused the CD. The FIR unfolds that the deceased is the informant's younger sister. She was married to the accused No. 1 and the present petitioner No. 1 is the father of the accused No. 1 and petitioner No. 2 is the father of the accused No. 2. After her marriage with the accused No. 1 she was subjected to cruelty to meet the illegal demand of dowry of the accused-persons. As the deceased was unable to meet their illegal demand of dowry she had to endure the cruelty meted out to her. On 11.09.2022 at about 12:30 AM, the accused-persons which also includes the present petitioners conspired and committed the murder of the deceased.

4. The learned counsel for the petitioners has submitted that the petitioners reside in a separate house and subjecting the deceased to cruelty is out of question.

5. It is submitted by the learned Addl. P.P. that there are cogent materials in the Case Diary. The statements u/s 161 Cr.PC clearly implicates that the present petitioners also subjected the deceased to cruelty.

6. I have also perused the Case Diary. The post-mortem report reveals that death was due to ante-mortem hanging but ante-mortem injuries were also detected during post-mortem examination.

7. It is submitted by the learned Addl.P.P. that the statements of the witnesses reveal that all the accused-persons including the petitioners assaulted the deceased which finally resulted in her death.

8. I have considered the import of the sections under which the petitioners are booked. The petitioners may be elderly citizens but they are booked under a serious offence. Although the accused No. 1 has already been arrested as submitted at the Bar, yet it cannot be ignored that the petitioners are booked under a serious offence. The petitioners may be insulated

against investigation if they are admitted to bail. Investigation may be adversely affected. The provisions under Section 438 Cr.PC cannot be exercised in an untrammelled manner. At this stage there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioners.

Petition is rejected.

Send back the Case Diary.

JUDGE

Comparing Assistant