

GAHC010021622023



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

Case No. : AB/376/2023

SMT. JAYANTI DAS
W/O LATE RABEN DAS, R/O VILL NO 1 BARPATHAR, UTTARPARA, P.S.-
PANBARI, DIST-CHIRANG, BTR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B J MUKHERJEE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15.09.2023

Heard Mr. B. J. Mukherjee, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal

Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Panbari P.S. Case No. 07/2023, under Sections 304B/306/34 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Mukherjee, that the petitioner is the mother-in-law of the victim/deceased and she has not committed any such offence as alleged in the F.I.R. Further it is submitted that from the statement made in the F.I.R. also, it does not seem that there are any ingredients to fulfill the requirement of Section 107 of the Indian Penal Code nor there is any evidence that the present petitioner instigated the victim to commit suicide. Further, from the F.I.R., it also reveals that the incident took place on 04.01.2023 and on which date, the victim consumed some poison and she was immediately got admitted in GNRC Hospital and subsequently she died on 08.01.2023. But, surprisingly, her dying declaration was not been recorded by the I.O. He further submitted that after obtaining the interim pre-arrest bail on 19.04.2023, the petitioner appeared before the I.O. and her statement was also recorded under Section 161 Cr.P.C. But, on 28.08.2023, after perusal of the Case Diary, a co-ordinate Bench of this Court had recalled her interim pre-arrest bail order and the prosecution was directed to furnish the updated Case Diary. Further it is submitted that the accused/ petitioner is an old aged lady and she is ready and willing to co-operate with the further investigation of the case if she is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. Das, has submitted that after obtaining the order of interim pre-arrest bail, the petitioner has appeared before the I.O. concerned and her statement under Section 161 Cr.P.C. has also been recorded. He further submitted that there are some materials in the Case Diary which incriminate the present petitioner. But, as per the statement of the petitioner, after the marriage between her son and the victim/deceased, she used to reside separately and hence, she is not at all involved in the alleged offence. Further it is submitted that though the Post-Mortem report has been collected by the I.O., but the cause of death could not be ascertained as the viscera report etc., which were sent before the FSL for examination, has not yet been received by the I.O.

After considering the submissions made by the learned counsel for both sides and also considering the materials available in the Case Diary, I find that custodial interrogation of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Smti Jayanti Das, in connection with Panbari P.S. Case No. 07/2023, under Sections 304B/306/34 of the Indian Penal Code, she shall be enlarged on pre-arrest bail on her executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (ii) that the petitioners 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant