

GAHC010031802023



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

Case No. : AB/459/2023

SUMAN MAHANTA
S/O LATE NITYANANDA MAHANTA,
VILL.- JURIA, DA-GAON,
P.S.- JURIA,
DIST.- NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR D MAHANTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 10-03-2023

Heard Mr. D Mahanta, learned counsel for the petitioner and
Ms. SH Bora, learned Addl. PP, appearing for the State respondent.

2. The petitioner, namely, ***Suman Mahanta***, has filed an
application under section 438 Cr.P.C., who is apprehending arrest in

connection with ***Juria PS Case No.25/2023*** under sections 120(B)/328/307/34 IPC, for grant of pre arrest bail.

3. I have perused the case diary.

4. The petitioner was on interim bail till today. It is submitted on behalf of the petitioner that he is the sole bread winner of his family and his daughter who is only 3 (three) years old was suffering mentally as the petitioner is unable to take care of his child. But at present, the petitioner was granted interim protection for one month. The petitioner's mother and sister have also been granted bail.

5. The FIR unfolds that Binu Das eloped with the petitioner and thereafter she was staying with him as his wife. She was subjected to cruelty and on 27.01.2023 as she was unable to endure the cruelty meted out to her by the petitioner and his family members which includes his mother and his younger sister, she ended her life by consuming poison. The petitioner informed his brother in law over phone that his wife was unwell. The deceased was referred to Guwahati for better treatment but finally she passed away.

6. The case diary reveals cogent materials against the petitioner. The petitioner has been incriminated by the witnesses whose statements have been recorded under Section 161 Cr.P.C.

7. It is submitted on behalf of the petitioner that cruelty is not discernible.

8. I have considered the submissions. It is true that cruelty can only be inferred. It is also true that no offence under section 306/304-B IPC has been registered against the petitioner. The petitioner is booked under section 120B/328/307/34 IPC, but this

does not entitle the petitioner to bail. At this juncture, the evidence garnered by the investigating agency is not required to be brought to the fore.

9. I have considered the gravity of the offence under which the petitioner is booked. It appears that investigation may be adversely affected if the petitioner is insulated by an order of pre arrest bail at this juncture.

10. I have given my anxious consideration to the submissions at the bar with circumspection. At this juncture there appears to be no justified ground to extend the privilege of pre arrest bail to the petitioner. Accordingly, the petition is rejected at this stage.

11. Send back the case diary.

JUDGE

Comparing Assistant