

GAHC010042612023



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

Case No. : AB/668/2023

ISMAIL ALI AND 4 ORS.

S/O- IDRICH @ IDDISH ALI, R/O- VILL- MORNOI GAON, P.O. MORNOI
GAZING, P.S. BIHPURIA, DIST.- LAKHIMPUR, ASSAM

2: AJUFA BEGUM
W/O- ISMAIL ALI
R/O- VILL- MORNOI GAON
P.O. MORNOI GAZING
P.S. BIHPURIA
DIST.- LAKHIMPUR
ASSAM

3: NASIBUDDIN ALI
S/O- ISMAIL ALI
R/O- VILL- MORNOI GAON
P.O. MORNOI GAZING
P.S. BIHPURIA
DIST.- LAKHIMPUR
ASSAM

4: SAHIDUL ALI
S/O- ISMAIL ALI
R/O- VILL- MORNOI GAON
P.O. MORNOI GAZING
P.S. BIHPURIA
DIST.- LAKHIMPUR
ASSAM

5: MERAJUL HOQUE
S/O- ISMAIL ALI
R/O- VILL- MORNOI GAON
P.O. MORNOI GAZING
P.S. BIHPURIA
DIST.- LAKHIMPUR
ASSA

VERSUS

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

2:SRI CHAKRASHWAR TALUKDAR
SUB-INSPECTOR OF POLICE
BIHPURIA POLICE STATION
DIST.- LAKHIMPUR
ASSA

Advocate for the Petitioner : MR G PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

17.03.2023

Mr. G. Phukan, learned counsel, appears for the petitioners.

Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam appears for the State.

The petitioners, namely, Ismail Ali, Ajufa Begum, Nasibuddin Ali, Sahidul Ali and Merajul Hoque, have preferred this Anticipatory Bail Application apprehending arrest in connection with Bihpuria Police Station Case No.03/2023 under Sections 120(B)/302/376(3) IPC read with Section 4 of POCSO Act and read with Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006.

A First Information Report dated 03.01.2023 was lodged by SI of Bihpuria Police Station alleging that on 03.01.2023 at about 7 am, one Ismail Ali (petitioner No.1 herein) appeared in Bihpuria Police Station and verbally

informed that one Jyotsna Das alias Jyotsna Begum, who was the wife of his son Faijul Haque, had committed suicide by hanging herself in a bamboo with her '*chunni*' in the bedroom of her house situated at Mornoi.

Upon making necessary entry in the General Diary, the informant along with the police staff went to the place of occurrence and took stock of the incident. The dead-body was recovered and inquest was prepared by the Circle Officer, Bihpuria. The statements of the witnesses available at the place of occurrence including the husband were recorded. It was stated by the husband Faijul Haque that age of the deceased was about 14 years at the time of marriage.

Pursuant to the FIR being lodged and registered as Bihpuria Police Station Case No.03/2023, investigation in the matter commenced. Apprehending arrest, the petitioners being the relatives of husband Faijul Haque are before this Court seeking anticipatory bail.

Post mortem was conducted on 03.01.2023, which reveals that death was due to *asphyxia* resulting from *ante mortem* suicidal hanging and the approximate time of death was shown between 12.00 to 18.00 hours.

By order, dated 01.03.2023, this Court called for the Case Diary.

Today, when the matter is called up, Case Diary has been produced by the learned Additional Public Prosecutor, Assam.

Learned counsel for the parties have been heard. The pleadings on record have been perused.

From the Case Diary, it is seen that investigation has progressed in the matter. It is also seen that there are materials in the Case Diary, which show that there was a discord between the husband and the deceased, namely,

Jyotsna Das @ Jyotsna Begum. The examination of the witnesses reveals that the victim was about 14-15 years old at the time of marriage. Case Diary also reveals that although investigation has progressed but charge-sheet in the matter has not been filed.

From the materials available in the Case Diary, it is seen that the matter is at the stage of investigation and although statements of some witnesses were recorded, this Court is of the view that considering the gravity and nature of the offences alleged, it will not be in the interest of investigation if this Court grants interim bail to the petitioners as the same may hamper the progress of investigation at this stage.

Accordingly, the prayer for pre-arrest bail made by the petitioners is rejected at this stage.

The Anticipatory Bail application is, accordingly, disposed of.

Case Diary be returned back.

JUDGE

Comparing Assistant