

GAHC010044892023



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

Case No. : AB/780/2023

BHOLA BAG AND ANR
S/O LATE SRIDHAR BAG
R/O VILL- ROHDHOLA BASTI
PS. GOHPUR
DIST. BISWANATH, ASSAM

2: SRI PABAN DEEP
S/O LATE KARTIK DEEP
R/O VILL- ROHDHOLA BASTI
P.S. GOHPUR
DIST BISWANATH
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY ITS PP, ASSAM

Advocate for the Petitioner : MR. L GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

26.04.2023

Heard Mr. L. Gogoi, learned counsel for the petitioners and Mr. R.R Kaushik,

learned Addl. Public Prosecutor, Assam for the State.

- 2.** This anticipatory bail application has been filed by the petitioners namely, 1. Sri Bhola Bag and 2. Sri Paban Deep, apprehending arrest in connection with Gohpur P.S. Case No. 46/2023 under Section 143/302 of the IPC.
- 3.** By an FIR dated 08.02.2023 lodged by the informant one Smt. Dipti Tamuli who is the WSI(P) at the Gohpur Police Station. It was alleged that one Montus Gaur had beaten his wife one Sonali Baishnab Gaur with a piece of firewood by hitting her on the head. After getting information when the police party visited the site, it was found that the said Montus Gaur was being assaulted by some group of people. After seeing the police, these group of people fled away and the said Montus Gaur was taken to Gohpur SDCH for treatment. The said Montus Gaur died while he was undergone treatment. Accordingly, the said FIR was received and registered as Gohpur P.S. Case No. 46/2023 under Sections 143/302 of the IPC.
- 4.** During the course of the investigations, the petitioners, who are the neighbours of both the deceased persons, were present when the incident occurred, are apprehending arrest as their presence are sought for by the police in connection with the investigation.
- 5.** This Court vide order dated 05.04.2023 called for the case diary. The case diary called for has been presented by the learned Addl. Public Prosecutor.
- 6.** From the case diary, it is seen that the police has initiated the investigations and statements of witnesses have been recorded. The post mortem report reveals that the cause of death is due to cardio respiratory failure as a result of the injury sustained.

7. Upon hearing the learned counsels for the parties and upon due perusal of the case diary produced, it is seen that no specific materials are available against the petitioner. Although there are materials to suggest that they are present in the site of occurrence but no concurrent materials at this stage of investigation to suggest that they are the culprits who committed the offences alleged. The matter is presently the investigation.

8. Considering the submissions made and also upon due perusal of the case diary, this Court is of the view that the prayer for anticipatory bail to the petitioners can be granted at this stage.

9. Accordingly, in the event of their arrest, they shall be released on pre-arrest bail, in connection with the above noted case, on furnishing bail bond of **Rs.15,000/- (Rupees Fifteen Thousand only)** each with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioners shall appear before the Investigating Officer within 10 days from today as on such other dates as may be required;

(ii) That the petitioners shall not hamper or tamper with the investigation in any manner;

(iii) 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; and

(iv) That the petitioners shall not leave their jurisdiction without obtaining prior written permission from the concerned Investigating Officer of the case.

10. In the event, the petitioners are found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer

shall be at liberty to apply for recall/cancellation of the bail granted to the petitioners.

11. The anticipatory bail application stands disposed of.

12. Return the case diary.

JUDGE

Comparing Assistant