

GAHC010045342023



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

Case No. : AB/787/2023

RAFIQUL ALAM AND 2 ORS
S/O LATE JAYNAL ABDIN
VILL- HAHCHORI P.S. CHHAYGAON
DIST. KAMRUP, ASSAM

2: MAYDUL ISLAM
S/O LATE RAHMAN ALI @ RAHMAN SARKAR
VILL- JORSHIMULI
P.S. CHHAYGAON DIST. KAMRUP
ASSAM

3: SOFI UDDIN @ SOBUR UDDIN
S/O LATE IDRISH ALI
VILL- NATUN KATHMI
P.S. BOKO DIST. KAMRUP ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR
ORDER

Date : 11.04.2023

Heard Mr. N. Uddin, learned counsel appearing for the petitioners. Also
Heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the

State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **1. Rafiqul Alam, 2. Maydul Islam, 3. Sofi Uddin @ Sobur Uddin**, apprehending arrest in connection with **Boko P.S. Case No. 35/2023** registered u/s **306** of the IPC r/w Section **8** of POCSO Act.

Case diary, as called for, is placed before the Court.

The FIR reveals the allegation that on 29.12.2022, the daughter of the informant was physically harassed by the FIR named accused petitioners and later on, she was found consuming poison at home. Thereafter, she was taken to the hospital but subsequently she died.

It is seen that during the pendency of this case, the petitioner No. 1 has already been arrested and, as such, his prayer for pre-arrest bail has become infructuous.

FSL report is not available and the cause of death could not be ascertained during the post-mortem examination. The toxicology report is also awaited.

Further, perusal of the case diary prima facie reveals no sufficient incriminating material as regards the petitioners' abatement in the commission of suicide of the deceased Helmina Parbin, the daughter of the informant.

Considering entire aspects of the matter, this Court is of the opinion that custodial interrogation of the petitioner Nos. 2 and 3 may not be necessary in the interest of investigation in the case.

Accordingly, it is provided that in the event of arrest, the petitioner Nos. 2 and 3, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 30,000/- each** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner Nos. 2 and 3 shall appear before the Investigating Officer within 7 days, failing which on and from the 8th day, this pre-arrest bail order shall have no force; and
- (ii) That the petitioner Nos. 2 and 3 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.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant