

GAHC010047872023



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

Case No. : AB/756/2023

GOLAM MOULA
S/O LATE SAMSUL HOQUE
VILL- LALKURA (DUSRA SIMLABARI), P.O. SIMLABARI, P.S. BAGUAN
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 07.06.2023

Heard Mr. H.R. A. Choudhury, learned senior counsel assisted by Mr. I. U. Choudhury, learned counsel appears for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam. Mr. A. A. R.

Karim, learned counsel appears for the informant.

2. By this application under Section 438 of Cr. P.C., the petitioner, namely, Golam Moula is seeking Anticipatory Bail apprehending arrest in connection with an FIR dated 22.02.2023, which is registered as Baguan Police Station case No. 19/2023, registered under Sections 384/306/34 of IPC.

3. By the said FIR dated 22.02.2023, lodged by the informant, one Amir Ali Khan it was alleged that his younger brother, Azizul Hoque Khan committed suicide by hanging in a rented house of one Sadek Ali situated at Junkaipara. Before committing suicide the deceased person recorded a video and named the accused persons as persons responsible trying to blackmail him for money, because of which the petition finding no other alternatives has committed suicide.

4. This Court by earlier order dated 11.04.2023 while calling for case dairy had granted interim bail to the petitioner.

5. The case dairy called for has been produced by Mr. B. B. Gogoi, learned Additional Public Prosecutor appears for the State of Assam. The case dairy produced has been carefully perused.

6. From the perusal of the case diary, it is seen that the matter is under investigation and the charge-sheet has not yet been filed. The Post Mortem Report available shows the cause of death was "*due to the asphyxia as a result of ante-mortem suicidal hanging*". The statements of the various witnesses

referred to the video which was taken by the deceased prior to taking his extreme steps where he made allegations against the petitioner.

7. From the perusal of the case dairy no incriminating materials at the stage of investigation is noticed to suggest that there is any involvement of blackmailing by the petitioner. The video recorded by the deceased prior to his death was also sent for FSL and a positive report in respect of the authenticity has been received. The statement of the accused/petitioner has also been recorded. There are no materials to suggest that the petitioner did not abide by the conditions in the order dated 11.04.2023. No materials are available in the case dairy to suggest that grant of anticipatory bail will not be conducive for the investigations carried on at this stage.

8. Considering the extent of investigation being carried on and in the absence of materials in the case diary which incriminate the petitioner at the stage of investigation, this Court is of the view that the interim bail granted earlier can be made absolute.

9. Upon due consideration of the materials available before this Court, this Court is of the view that the interim bail granted vide order dated 11.04.2023 can be made absolute. The interim bail granted earlier is therefore made absolute on the same conditions mentioned in the said order.

10. Accordingly, bail petition is allowed and disposed of.

11. Return the case diary.

JUDGE

Comparing Assistant