

GAHC010050952023



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

Case No. : AB/840/2023

SHOHJOL HOQUE AND ANR
S/O- LT. SALIMUDDIN, VILL- HATSINGIMARI, P.S. SOUTH SALMARA,
DIST.- SOUTH SALMARA-MANKACHAR, ASSAM, PIN- 783128

2: MOHIJOL HOQUE
S/O- LT. SALIMUDDIN
VILL- HATSINGIMARI
P.S. SOUTH SALMARA
DIST.- SOUTH SALMARA-MANKACHAR
ASSAM
PIN- 78312

VERSUS

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

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

27.03.2023

1. Heard Mr. A. Z. Ahmed, learned counsel appearing for the petitioners as well as Mr. P.S.

Lahkar, learned Addl. P.P. appearing for the State respondent.

2. The petitioners, namely, Shohijol Hoque and Mohijol Hoque have filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as they are apprehending arrest in connection with Sukchar P.S. Case No. 80/2023, (corresponding G.R. Case No. 267/2023), under Sections 306/34 IPC.

3. I have considered the submissions at the Bar and I have also perused the case diary.

4. It is submitted on behalf of the petitioners that no overt act could be attributed to the petitioners. The petitioners were present when the document of land of valuation of Rs. 4,00,000/- was prepared in their house. But apart from the allegation that the document was prepared in the petitioner's house, no overt act could be attributed to them. It cannot be conjectured that the petitioner abetted the deceased to commit suicide. The allegation against the petitioners is that a meeting was held in their house regarding the love affair between the informant's son and the daughter of the accused no. 1. The deceased Abu Salam Sk was called in a meeting and was pressurised to execute a document to pay the amount of Rs. 4,00,000/- if the marriage between his son and the daughter of accused no. 1 is not solemnised after their minor children attain majority.

5. Thereafter, the petitioners and the co-accused named in the FIR exercised pressure on the deceased Abu Salam Sk to pay of Rs. 4,00,000/-. Finally, a conspiracy was hatched up by the present petitioners along with the co-accused named in the FIR and informant's son was entrapped by the daughter of the accused no. 1 named in the FIR. Pursuant to this incident, the informant's husband Abu Salam Sk committed suicide. It is submitted at the Bar that the petitioners names are mentioned in the FIR in an omnibus manner. No pressure exercised by the petitioners to the deceased to repay the amount of Rs. 4,00,000/- which was in fact shown as a loan obtained by the deceased.

6. The learned Addl. P.P. has raised objections stating that the statement of the witnesses incriminates the petitioners. They also have a role in abetting the deceased to commit suicide. After a close scrutiny of the FIR and the statement of the witnesses and considering the submissions at the Bar, petition is allowed.

7. In the event of his arrest, the petitioners shall be enlarged on bail of Rs. 50,000/- each

with a suitable surety each of like amount to the satisfaction of the arresting authority,

Under the conditions that:-

- i. the petitioners will refrain from such activities with which they are alleged.
8. Send back the case diary.

JUDGE

Comparing Assistant