

GAHC010051422023



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

Case No. : Bail Appln./883/2023

HIRAK JYOTI SARMA AND ANR
S/O TARANI SARMA
R/O VILL- PACHIM NAOKATA
P.O. NAOKATA
P.S. GORESWAR
DIST. TAMULPUR, BTR, ASSAM
PIN-781364

2: SRI ANKUR SARMA
S/O PARESH SARMA
R/O VILL- PACHIM NAOKATA
P.O. NAOKATA
P.S. GORESWAR
DIST. TAMULPUR
BTR
ASSAM
PIN-78136

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

27.03.2023

Heard Mr. A.K. Azad, learned counsel appearing for the accused petitioners as well as Mr. R.J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely **1) Hirak Jyoti Sarma and 2) Ankur Sarma** have prayed for grant of bail in connection with **Goreswar P.S. Case No. 61/2022** under Sections **120B/342/506/325/384/389/306** of the IPC read with Section **75** of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The case diary, as called for, is placed before the Court.

The brief facts of the case are that on 09.07.2022 at about 9.30 a.m. the informant's cousin namely Mithun Kumar aged about 16 years was picked up from his workplace at Naokata Petrol Pump by the petitioner No. 1 and another on the charge of stealing in the shops of one Ambika Nath and Bahiram Kumar about 6 months back and produced him in the office of Naokata Pub Defeli Anchalik AASU. Inside the said office the FIR named accused persons physically tortured, threatened and compelled the victim to kneel down for about two hours and also picked up his friend one Lakhyadhar Kumar, who was also compelled to kneel down by holding ears. The accused persons then demanded an amount of Rs.10,000/- each from both the victim and on being refused they agreed to take Rs.5,000/- as well as took signatures in an agreement. Said Lakhyadhar Kumar deposited Rs.5,000/- to the petitioner No. 2 and the

informant's cousin took eight days' time to deposit the money. Unfortunately, due to the physical and mental torture meted out to the victim by the FIR named accused persons, on 09.07.2022 he committed suicide by hanging at his own house.

The accused petitioners have been in judicial custody since 23.02.2023, that is, for 32 days.

The PM report shows that the cause of death of the deceased was due to asphyxia as a result of hanging.

Perusal of the case diary shows prima facie circumstantial incriminating evidence against the accused petitioners. Co- accused persons are already released on bail. The investigation has substantially progressed in respect of the complicity of the accused petitioners in the commission of the alleged offences.

Considering the pros and cons of the materials available on the case diary, this Court is of the opinion that if the accused petitioners are released on bail, the ongoing investigation into the case is unlikely to be adversely affected.

Accordingly, it is provided that each of the accused petitioners, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand)** **each** with one surety of like amount to the satisfaction of learned **C.J.M., Baksa** subject to the following conditions-

- (i) That the accused petitioners shall cooperate with the Investigating Officer as and when required;
- (ii) That the accused 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 Police Officer or the Court; and

(iii) That the accused petitioners shall refrain from committing any offences similar to the one of which they are accused or suspected of commission.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant