

GAHC010055632023



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

Case No. : Bail Appln./981/2023

MOJIBAR RAHMAN @ MAJIBAR RAHMAN
S/O SAMSUL HOQUE
R/O VILL- GHORAMARA PATHER
P.S. CHHAYGAON
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

12.04.2023

Heard Mr. P. Das, learned counsel for the accused-petitioner. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This bail application has been filed by the accused petitioner namely, Sri

Mojibar Rahman @ Majibar Rahman, seeking bail in connection with Chhaygaon P.S Case No. 26/2023 under Sections 304(B)/34 of the IPC. The accused-petitioner was arrested on 26.01.2023 and since then he has been in custody.

3. This Court vide orders dated 16.03.2023 and 29.03.2023, the case diary along with post-mortem report were called for.

4. Today when the matter is called up, the learned Addl. Public Prosecutor, Assam submits that the case diary is available and the same has been presented before the Court.

5. It is submitted by the learned counsel for the accused-petitioner that the deceased was the wife who was the daughter of the informant and because of domestic differences she had left the matrimonial house and had resided in her father's residence, there she committed suicide. It is submitted that his wife attempted to commit suicide in her father's house and then she was admitted in the GMCH for treatment. Subsequently, she expired in the GMCH. Pursuant thereto, the FIR has been lodged by his father-in-law making allegation against the accused-petitioner. His wife was expired on 12.01.2023.

6. Perusal of the case diary reveals that the investigation in the matter has progressed but the charge-sheet has not been filed. The post-mortem report available does not render any definite opinion regarding the cause of death rather the opinion is kept pending till the receipt of Chemical or Toxicological Analysis report of the viscera and the blood which has been sent for the examination to the Directorate of Forensic Laboratory.

7. The case diary has been perused. From the case diary, it is seen that the statements of the witnesses as well as the accused have been recorded. There are no materials in the case diary to suggest that release of the accused-petitioner will hamper the investigation carried on. The I.O is awaiting the results from the FSL regarding Chemical or Toxicological Analysis report of the viscera and the blood.

8. Upon hearing the learned counsel for the parties and upon perusal of the case diary presented before the Court and also taking into consideration the period of detention undergone by the accused-petitioner, this Court is of the view that considering the progress of investigation, the accused-petitioner can be released on bail.

9. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with above noted case on furnishing bail bond of **Rs.20,000/- (Rupees Twenty Thousand only)** with one local surety of like amount to the satisfaction of the learned C.J.M, Kamrup at Amingaon, subject, of course, to the following conditions:

(i) That the accused-petitioner shall appear before the CJM, Kamrup at Amingaon as and when required;

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

(iii) That the accused-petitioner 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 accused-petitioner shall not leave the jurisdiction of the concerned

Chhaygaon P.S without obtaining prior permission from the concerned Court.

10. Accordingly, the bail application stands disposed of.

11. Return the case diary.

JUDGE

Comparing Assistant