

GAHC010060472023



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

Case No. : AB/1007/2023

BINITA DEKA AND 2 ORS
W/O JITEN DEKA
R/O HENGRABARI
BORBARI
P.S. DISPUR
DIST. KAMRUP (M), ASSAM

2: UJJAL DEKA
S/O JITEN DEKA
R/O HENGRABARI
BORBARI
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM

3: UJJAL PROTIM BORBORA @ PROTIM SARMA
S/O PULIN CH. BORBORA
R/O KAHILIPARA
P.S. DISPUR

DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N J DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

27.06.2023

Heard Mr. N.J. Das, learned counsel for the petitioners. Also heard Mr. K.K. Das, learned Additional Public Prosecutor, appearing for the State of Assam.

This is an application under section 438 of the Code of Criminal Procedure, 1973 praying for pre-arrest bail of the petitioners, namely, 1. Binita Deka, 2. Ujjal Deka and 3. Ujjal Protim Borbora @ Protim Sarma in connection with Nazira P.S. Case No. 15/2023 under section 306/34 of the Indian Penal Code.

The accusation in this case is that on 17.02.2023, one Dulu Sarma lodged an FIR before the Officer-in-Charge of Nazira Police Station, *inter-alia*, alleging that the present petitioner no. 2 lured his daughter to Nagaon and kept her along with him. However, as the age of her daughter was less than 17 years, the brother-in-law of the accused, i.e. petitioner no. 3 and his mother, i.e. petitioner no. 1 brought the daughter of the first informant to his home and assured that after attaining the age of majority, she will be married to the petitioner no. 2.

It is also alleged in the FIR that the present petitioner tortured the daughter of the first informant before she was handed over to him and ultimately his daughter committed suicide on 14.02.2023 at about 5:00 PM.

It appears from the record that the petitioner no. 3 was granted interim anticipatory bail by this Court on 21.03.2023 with certain conditions and the petitioner no. 1 was granted interim anticipatory bail by this Court on 19.04.2023.

It appears from the case diary that petitioner no. 3 has already appeared before the Investigating Officer of the Nazira P.S. Case No. 15/2023 and his statement was also recorded by the Investigating Officer.

Considering the facts of this case and submissions of learned counsel for both the sides, this Court is of the opinion that keeping anticipatory bail matter pending any further would not serve any purpose. Hence, it is directed that the petitioner no. 1, who has already been granted interim bail shall approach the Investigating Officer of Nazira P.S. No. 15/2023 within a period of 2(two) weeks and her statement may be recorded by the Investigating Officer, if he so desires. The petitioner no. 2, Shri Ujjal Deka shall also appear before the Investigating Officer within a period of 2(two) weeks and shall co-operate with the Investigating Officer for investigation of the Nazira P.S. No. 15/2023. If he does so within the stipulated time, in the event of his arrest in connection with Nazira P.S. No. 15/2023, he shall be allowed to go on bail, on furnishing a bail bond of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, with the condition that the petitioner shall co-operate with the Investigation Officer of Nazira P.S. No. 15/2023.

With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant