

GAHC010063552023



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

Case No. : AB/1113/2023

PARAMBAL DAS
S/O LATE LOKESWAR DAS
R/O VILL- JILIKAPARA, P.O. BORKOLA SOUKA, P.S. KOLAIGAON,
DIST. UDALGURI, ASSAM
PIN-784525

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. PADMINI BARUA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 03-05-2023

1. Heard Ms. P. Barua, learned counsel for the petitioner Parambal Das who has filed this application under Section 438 Cr.P.C. for grant of pre-arrest bail in connection with Dhula P.S. Case No. 194/2022 under Sections 120(B)/389/306 IPC.
2. Heard Mr. K.K. Parasar, learned Addl. P.P. Assam.
3. I have considered the submissions at the bar and have perused the C.D. The FIR unfolds that on 27.08.2022 at about 7-30 pm Mrinmoy Hira Das along with his two friends, Jintu Das and Biplab Das

saw the accused No. 1 & 2 consuming Bhang. When they asked their name, the accused persons threatened and assaulted them. Regarding this incident both the parties filed FIRs. Thereafter, the accused persons along with Sarat Das and Ankur Das arriving at a settlement in respect of the said Ejahar demanded Rs. 5 lakhs and they threatened Mrinmoy Hira Das that he would be sent to jail or he would be killed on the road. Because of the threats exercised by the petitioner and his associates the victim Mrinmoy Hira Das committed suicide as he broke down mentally by the threats exercised on him. He also remained untraceable and at about 12-45 his body was found hanging by a rope tied on a tree in the bamboo grove in the house of Bijay Das of Borkuna Bagicha village.

4. It is submitted on behalf of the petitioner that regarding the incident of assault the FIR No. 192/2022 was lodged against the deceased and charge-sheet has been submitted against the deceased. Another FIR No. 193/2022 was lodged against Ankur Das and Satish Das. These persons are also named in the FIR of the present case i.e. FIR No. 194/2022.

5. It is also submitted on behalf of the accused that in the FIR 192/2022 the name of the present accused person was not mentioned but subsequently in the FIR No. 194/2022 the name of the petitioner has cropped up.

6. The learned counsel for the petitioner has relied on the decision of Uday Singh and others Vs. State of Haryana, (2019) 17 Supreme Court Cases 301, wherein it has been observed, "Mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of accused which compels the person to commit suicide"

7. It is submitted that no ingredients under Section 306 is made out against the present petitioner. It is also submitted that there is no direct evidence that the petitioner's threats compelled the victim to commit suicide. On the other hand the learned Addl. P.P. submits that the post mortem report reveals that ligature on the neck of the deceased was found to be non-continuous which suggests ante mortem hanging. This suggests that the deceased committed suicide.

8. After considering the submission at the bar and entire aspect of the matter, the petitioner is allowed to go on bail of Rs. 50,000/- with one local surety of the like amount to the satisfaction the arresting authority subject to conditions that :-

- i. the petitioner shall appear before the I.O. within 10 days and cooperate with the investigation;
- ii. the petitioner shall not tamper with the evidence ;
- iii. the petitioner shall refrain from such activities with which he is alleged; and
- iv. the petitioner shall appear before the I.O. after every 15 days till the investigation is completed.

9. The bail application is disposed of.

Return the C.D.

JUDGE

Comparing Assistant