

GAHC010074992023



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

Case No. : AB/1290/2023

AJAY BARUAH
S/O- LT. RUCHINATH BARUAH,
R/O- VILL. JHALONG GAON,
P.O.- MORAN, DIST.- DIBRUGARH.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 19.04.2023

Heard Mr. S. C. Biswas, learned counsel appearing for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State.

2. The petitioner has filed this Anticipatory Bail

petition apprehending arrest in connection with Moran Police Station Case No. 97/2022 under Section 302 of IPC.

3. An FIR dated 25.09.2022 was lodged by the informant, one, Smti Namita Handique Pal, whereby it was alleged that the body of her elder sister, Smti. Tilu Baruah was recovered in a pond situated in front of her house at village-Jhalong under P.S.-Moran. It is alleged in the FIR that the deceased used to reside along with one Sri Ajay Baruah. The body was first found by the said Ajay Baruah and then later on by the nearby villagers and accordingly information was sent to Moran Police Station. The body was thereafter sent for Post Mortem to Dibrugarh. It is alleged that the informant and the sisters of the deceased suspect the said Sri Ajay Baruah to be responsible for the death of their sister, namely, Tilu Baruah.

4. The said FIR was received and registered as Moran Police Station Case No. 97/2022 under Section 302 of IPC. This Court vide order dated 06.04.2023 called for the case daily along with the Post Mortem Report.

5. The learned Additional Public Prosecutor has produced the Case Diary along with the Post Mortem Report.

6. I have heard the learned counsels for the petitioners as well as the learned Additional Public Prosecutor for the State. The Case Diary produced has also been perused.

7. Upon perusal of the Post Mortem Report, it is seen that the medical opinion in the Post Mortem Report was initially

kept pending till the receipt of chemical analysis report of viscera from Directorate of Forensic Science Laboratory, Kahilipara, Guwahati. The medical opinion from the Department of Forensic and State Medicine under the Assam Medical College and Hospital, Dibrugarh, Assam and the Police Surgeon, Dibrugarh reveals that the death was due to asphyxia as a result of Ante-Mortem drowning. The Post-Mortem report was also suggestive of death due to the said reason. The report of the Directorate of Forensic Science Laboratory, Kahilipara, Guwahati reveals that no poison and its metabolites were detected in the samples sent to the forensic laboratory. However, from the Post Mortem Report although no injuries etc are seen on the body of the deceased as regards the external appearance of the deceased, it is recorded that the is mouth is partially open with tongue bitten between the teeth. The complainant/informant in her statements before the Investigating Officer reiterates the allegations made in the FIR. The statement of the accused/petitioner has also been recorded, where he denies having any involvement in the matter. He denies the allegations made against him in the FIR.

8. The petitioner has already appeared before the Investigating Officer and his statements have also been recorded. It is submitted that the petitioner was let of by the Investigating Officer with the condition that he should visit the Police Station every day.

9. The matter is under investigation by the Police. The statements of the witnesses including the informant/complainant as well as the statements of the petitioner have also been recorded. Considering the materials available in the case diary, it cannot be *prima-facie* concluded that it is a matter of suicide by the deceased. The apprehension expressed by the petitioner does not appear to be well founded as his statements have already been recorded by the Investigating Officer. In that view of the matter, taking into account the stage of the progress of investigation as well as the gravity of the offences alleged and the severity of the punishments, prescribed if convicted, the prayer for anticipatory bail need not be granted at this stage.

10. From the reasons above, the Anticipatory petition is accordingly dismissed.

11. Case Diary along with the Post Mortem Report is returned.

JUDGE

Comparing Assistant