

GAHC010076672023



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

Case No. : AB/1308/2023

JINA BIBI AND 3 ORS
W/O RAJIB ALI, R/O DAHALI, HALIGAON, P.S.-PALASHBARI, DIST-
KAMRUP (R), ASSAM

2: RAHIMA BIBI
W/O UDDU ALI
R/O DAHALI
HALIGAON
P.S.-PALASHBARI
DIST-KAMRUP (R)
ASSAM

3: MONOWARA BEGUM @ MONOWARA BIBI
D/O UDDU ALI
R/O DAHALI
HALIGAON
P.S.-PALASHBARI
DIST-KAMRUP (R)
ASSAM

4: SANJIB ALI @ IDRISH ALI
S/O UDDU ALI
R/O DAHALI
HALIGAON
P.S.-PALASHBARI
DIST-KAMRUP (R)
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S M MOLLAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 26-04-2023

Heard Mr. S.M. Mollah, learned counsel for the petitioners. Also heard Mr. K.K. Parashar, learned Additional Public Prosecutor for the State of Assam.

2. Apprehending arrest in connection with Palashbari P.S. Case No. 324/2022, under sections 143/147/148/326/325/302 IPC, the petitioners namely, (1) Jina Bibi, (2) Rahima Bibi, (3) Monowara Begum @ Monowara Bibi, and (4) Sanjib Ali @ Idrish Ali, have filed this third application for pre-arrest bail under section 438 CrPC.

3. The learned counsel for the petitioners has submitted that the petitioners and the informant are close relatives. It is also submitted that the role of the petitioners in the alleged offence cannot be culled out from the FIR. It is also submitted that the petitioner no. 4, namely, Sanjib Ali @ Idrish Ali is related to both sides, i.e. informant and the accused, and although he had not participated in the alleged assault and killing of members of the informant's side, he has been made an accused as he resides in the neighbourhood.

4. The learned Add. P.P. has produced the case diary and has opposed the prayer for bail.

5. This is the third anticipatory bail application of the petitioners.

The prayer of the petitioners for pre-arrest bail was rejected by order dated 02.11.2022, passed by this Court in AB No. 2615/2022, and again by order dated 09.03.2023, passed by this Court in AB No. 3818/2022.

6. The case diary discloses sufficient materials against the petitioners. The case diary reveals that on 29.08.2022, at around 2.14 pm, Rahima Bibi (petitioner no. 2) and Monowara Bibi (petitioner no. 3) had held Monsur Ali (since deceased), the brother of the informant and at that time, Jina Bibi (petitioner no. 1) had handed over a dagger to Akhtar, who had stabbed and killed Monsur Ali (the deceased), who was the younger brother of the informant and that the FIR named accused persons had also allegedly tried to kill Hamid Ali, the elder brother of the informant.

7. As per the post mortem report, death was "due to hemorrhage and shock as a result of injuries sustained over the body as described." As per the medical opinion, all the injuries were ante-mortem and caused by pointed sharp cutting weapon, which was homicidal in nature.

8. On a perusal of the case diary, it is observed that the witnesses examined by the I.O so far have implicated the petitioner nos.1, 2 and 3. One of the witnesses examined by the I.O., has also implicated the petitioner no. 4 of participating in the assault, which resulted in death of the younger brother of the informant.

9. Under such circumstances, this Court does not find this to be a fit case to grant pre-arrest bail to the petitioners.

10. Thus, in the interest of investigation, the prayer for anticipatory

bail is once again refused.

11. Let the case diary be sent back along with a copy of this order.

JUDGE

Comparing Assistant