

GAHC010084172023



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

Case No. : Bail Appln./1444/2023

JOYNUR ALI
S/O- LATE TAHAJUDDIN ALI
VILLAGE- DORONGIPARA RESERVE P.S. MUKALMUA
DIST.- NALBARI
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P.
ASSAM

Advocate for : MR. A M KHAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 29.05.2023

Heard Mr. A. M. Khan, learned counsel appearing for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioner,

namely, Joynur Ali seeking bail in connection with Boko P.S. Case No. 153/2022 registered under Section 328/302 of IPC. The petitioner was arrested on 21.03.2023 and since then he has been in custody.

3. It is submitted that an FIR dated 09.04.2022 was lodged by the informant, one Johirul Islam, wherein it was alleged that on 08.04.2022, one Khairul Islam, who is his nephew was travelling from Goalpara to Guwahati in an unknown Alto Car via 17 no. National Highway. But in the evening at about 6.30 p.m when the informant tried to contact his nephew his mobile phone was found switched off. And at night at about 9.30 p.m they were intimated from the Boko Police Station that the police rescued his nephew in an unconscious condition lying on the road near Singra Bridge and for treatment he was admitted to Boko Civil Hospital, but the doctor on examination declared him to be brought dead.

4. It is alleged that the culprits had administered drug to the nephew in the vehicle through which he was travelling and resultantly he died. His personal articles, like mobile phone, money bag etc have also not been received.

5. This Court by earlier order dated 17.05.2023, had called for the case dairy. And Mr. B. B. Gogoi, learned Addl. P.P has produced the case diary before this Court as called for.

6. Case diary produced has been carefully perused. The matter is under investigation and the Post Mortem Report is also available. The FSL Report does not indicate presence of

any poisons including Ethyl Alcohol. The matter is still under investigation and there are materials which incriminates the petitioner at the stage of investigation. There are further materials to suggest that other accused persons, who are connected with the case have not been arrested at this stage of investigation.

7. Upon careful perusal of the case dairy and also upon hearing the learned counsels for the parties, this Court is of the view that in the face of the materials available in the case dairy, which incriminate the petitioners at the stage of investigation, this Court does not consider this to be a fit case to release the petitioners on bail as prayed for, at the stage of investigation.

8. With the above observation, the bail petition is accordingly dismissed.

9. Return the Case Dairy.

JUDGE

Comparing Assistant