

GAHC010084822023



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

Case No. : AB/1448/2023

ZAKIR MIAH AND ANR.
S/O MOJURUL HOQUE
R/O VILL- DAKERGAON, P.S. MANKACHAR,
DIST. SOUTH SALMARA MANKACHAR, ASSAM

2: RUP CHAND
S/O NURUL HOQUE
R/O VILL- DAKERGAON
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

29.05.2023

Heard Mr. M. Ahmed, learned counsel for the petitioners and Mr. B.B. Gogoi, learned Addl. PP for the State.

2. This anticipatory bail application has been filed by the petitioners, namely, **1. Zakir Miah and 2. Rup Chand** apprehending arrest in connection with Mankachar P.S. Case No. 26/2023 under Sections 120(B)/365/302/201 of the IPC.

3. The learned counsel for the petitioners submits that an FIR dated 20.01.2023 was lodged by the informant namely, Amirul Islam alleging that his brother, namely, Nur Nobi, went missing on 19.10.2022 while he was returning to his house from his father-in-law's house and the said information was given and in that case a missing person complaint was lodged before the Mankachar police station. On 20.01.2023, one body was recovered lying in an abandoned ditch at Village-Kakjripara in Beparipara and upon noticing the structure and wearing apparels, it was assumed that it could be the dead body of the informant's missing brother. It is alleged in the FIR that on 19.10.2022 at night, there was some hue and cry of persons in a gathering and his brother was also stated to be there and from that day onwards his brother was missing. The informant alleged that in the quarrel took place on the said date, the certain other persons including the petitioners, named in the FIR, to be involved in the quarrel and in which the late brother of the informant was also involved. Therefore, it is suspected that his late brother was kidnapped and subsequently murdered and his body was conceived by the persons named in the FIR as accused persons. The petitioners No. 1 & 2 are also named in the FIR. Being apprehensive of arrest, the present anticipatory bail application has been filed.

4. By order dated 23.05.2023 passed in A.B. No. 1573/2023, this Court had earlier granted the petitioner, who was also named in the FIR, on pre-arrest bail.

5. This Court earlier called for the case diary. The case diary called for has been presented by the learned Addl. PP.

6. It is seen that the investigations in the matter has been continued by the police but no charge-sheet has yet been filed.

7. Careful perusal of the case diary does not reveal any materials which can incriminate the petitioners save and except the statements made by the informant and the wife of the deceased. The post mortem report gives the opinion of death being caused due to drowning. No other injuries were recorded in the post mortem report on the body as body was highly decomposed.

8. Upon careful perusal of the case diary and upon hearing the learned counsels for the parties, this Court is of the view that prayer for anticipatory bail in respect of the petitioners at this stage of investigations can be granted.

9. Accordingly, if the petitioners are arrested, they shall be released on interim pre-arrest bail, in connection with the above noted case, on furnishing bail bond of **Rs.30,000/- (Rupees Thirty Thousand only)** each with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioners shall appear before the Investigating Officer within one week from today;

(ii) That the petitioners shall not hamper or tamper with the investigation in any manner;

(iii) That the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iv) That the petitioners shall not move out of the jurisdiction of Mankachar P.S without obtaining prior permission from the concerned

Investigating Officer of the case.

10. In the event, the petitioners are found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the pre-arrest bail granted to the petitioners.

11. The anticipatory bail application stands disposed of.

12. Return the case diary.

JUDGE

Comparing Assistant