

GAHC010086132023



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

Case No. : AB/1466/2023

SWEET AHMED AND ANR
S/O NOZRUL ISLAM
VILL- SANTIPUR
P.S. SUKCHAR
DIST. SOUTH SALMARA -MANKACHAR, ASSAM
PIN-783128

2: SAYODA BIBI
W/O NOZRUL ISLAM
VILL- SANTIPUR
P.S. SUKCHAR
DIST. SOUTH SALMARA -MANKACHAR
ASSAM
PIN-78312

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 27-06-2023

1. Heard Mr. A.Z. Ahmed, learned counsel for the petitioners.
2. By this application under Section 438 of the Code of Criminal Procedure, 1973 [Cr.PC], the petitioners, namely, [1] Sweet Ahmed and [2] Sayoda Bibi have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Sukchar Police Station Case No. 80/2023 (Corresponding, G.R. No. 267/2023) under Sections 306/34 IPC.
3. Heard Ms. N. Das, learned Addl. P.P. for the State of Assam.
4. I have considered the submissions at the bar and I have also scrutinised the case-diary.
5. The learned counsel for the petitioners has submitted that the co-accused are already enlarged on bail and so he has prayed for bail of the present petitioners. The new ground according to the learned counsel for the petitioners is that investigation has progressed. It is also submitted on behalf of the petitioners that the main accused was the husband of the petitioner No. 2 who has also been arrested and released on bail. Vide order dated 27.03.2023 of this Court in Case No. AB 840/2023 and vide order of this Court dated 27.03.2023 in Case No. BA 863/2023 the co-accused have been enlarged on bail.
6. The FIR unfolds that on 03.02.2023 the minor daughter of the petitioner No. 2 entered into the informant's house and the informant then handed over the girl to the petitioner in presence of other people. On that very night, the petitioner along with her husband and son, Sweet Ahmed in a pre-planned manner with other co-accused called the informant's husband to the house of Shohijol Hoque and Mohijol Hoque at about 9 AM. The petitioner and other co-accused have forcefully taken the signature of the informant's husband on some papers relating to a loan taken by the informant's husband. Thereafter the accused mentioned in the FIR continuously exercised pressure upon the informant's husband for repayment of loan amount of Rs. 4 lacs purportedly borrowed by the informant's husband. On 13.02.2023 the petitioner's daughter, on the advice of the petitioner and the other co-accused persons called the informant's son over phone and thereafter the informant's son was confined and finally handed over to police. After this incident the informant's husband committed suicide.
7. The learned Addl. P.P has raised serious objection stating that there are incriminating

materials against the petitioners. The statements of the witnesses u/s 161 Cr.PC incriminates the petitioners.

8. The learned counsel for the petitioners has submitted that the allegation in the FIR does not make out a case u/s 306 IPC. No overt act could be ascribed that the petitioners have abetted the victim to commit suicide.

9. I have considered the fact that investigation has also progressed to a considerable extent. I have also considered the ground of parity. It also appears at this stage that further custodial interrogation may not be required for the progress of investigation.

10. In view of my foregoing discussions, petition is allowed. In the event of their arrest, the petitioners shall be enlarged on bail of Rs. 50,000/- each with suitable surety of like amount to the satisfaction of the arresting authority under the conditions that :—

- i. the petitioners will appear before the IO within 10 (ten) days from today and co-operate with the investigation;
- ii. the petitioners will not leave the jurisdiction of the Court without prior permission till completion of investigation as well as till completion of trial; and
- iii. the petitioners will not exercise threats to witnesses.

Send back the Case Diary.

JUDGE

Comparing Assistant