

GAHC010091752023



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

Case No. : AB/1573/2023

ZORUL @ JAHIRUL ISLAM
S/O BAKTAR ALI
R/O VILL- JHAGRARCHAR (DAKERGAON), P.O KAKRIPARA
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM

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 MR. JUSTICE SOUMITRA SAIKIA

ORDER

23-05-2023

Heard Mr. L.R. Mazumder, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

2. This Anticipatory Bail petition has been filed by the petitioner, namely,

Zorul @ Jahirul Islam, who is apprehending his arrest in connection with an F.I.R. dated 20.01.2023 lodged by one Amirul Islam which was received and registered as Mankachar P.S. Case No.26/2023 under Sections 120B/ 365/ 302/ 201 of the IPC.

3. It is submitted by the learned counsel for the petitioner that an FIR dated 20.01.2023 was lodged by the informant one 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. It is alleged that on 20.01.2023 one dead body was recovered lying in an abandoned ditch at village-Kakripara 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 that the informant came to be aware that on 19.10.2022 at night a public commotion took place and his brother was seen with other persons and since then his brother was missing. He further added that a quarrel took place between the petitioner and the persons named in the FIR. The petitioner has also been named in the FIR along with the other accused persons and therefore, the anticipatory bail petition has been filed praying for grant of anticipatory bail.

4. This Court vide order dated 04.05.2023 call for the case diary along with the post-mortem report.

5. Upon perusal of the case diary and post-mortem report, it is seen that as per the medical opinion the cause of death of the deceased is due to asphyxia_ due to drowning. There are no materials available in the case diary at this stage of investigation to suggest that the petitioner was involved in commission of the offence alleged in the FIR. Further, in the post-mortem report there is no medical opinion which reveal that the deceased was subjected to any injury or torture which had led to his death.

6. Upon hearing the learned counsels for the parties and upon perusal of the medical report as well as the case diary, this Court is of the view that the petitioner can be granted anticipatory bail as prayed for.

7. Accordingly, the petitioner, in the event of arrest in connection with the above noted case, shall be released on pre-arrest bail upon furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with 1 (one) local surety of like amount to the satisfaction of the arresting authority, subject, of course to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 10 (ten) days from today;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;

- (iii) That the petitioner 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 office; and
- (iv) That the petitioner shall not leave the jurisdiction of Mankachar Police Station without obtaining prior written permission from the concerned Investigating Officer of the case.

In the event, the petitioner is 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 anticipatory bail granted to the petitioner.

8. The Anticipatory Bail Application accordingly stands disposed of. Return the case diary.

JUDGE

Comparing Assistant