

GAHC010097522023



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

Case No. : AB/1648/2023

HAMIDA BIBI AND 2 ORS
W/O TAHERUDDIN SHEIKH
R/O VILL- BELGURI PART-II,
P.S. GOLAKGANJ
DIST. DHUBRI, ASSAM
PIN-783335

2: SMTI. TASLIMA BIBI
S/O TAHERUDDIN SHEIKH
R/O VILL- BELGURI PART-II

P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN-783335

3: SRI APIJUL HOQUE
S/O TAHERUDDIN SHEIKH
R/O VILL- BELGURI PART-II

P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN-78333

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 19.05.2023

Heard Mr. A.A.R. Karim, learned counsel for the petitioners. Also heard Mr. K.K. Parasar, learned APP appearing for the State.

2. Apprehending arrest in connection with Agomoni P.S. Case No. 79/2022, under section 306/134 IPC, corresponding to G.R. No. 937/2022, the petitioners have filed this application under section 438 Cr.P.C.

3. The previous bail application for pre-arrest bail was rejected by order dated 11.08.2022, passed in AB 1824/2022.

4. The learned APP has produced the case diary and has opposed the prayer for pre-arrest bail on the ground that no new grounds have been made out.

5. On examination of the case diary, the investigation carried out so far indicates that the victim had died of poisoning and the report of the Toxicology Division of the Directorate of Forensic Science indicate that the viscera was positive of organophosphorous insecticide/poison.

6. On perusal of the inquest report, it is seen that there is no mark of violence on the body of the deceased and it is also observed that as per the FIR, the petitioners have initially taken the victim to Agomoni CHC on 25.05.2022 and in course of treatment, she expired on 26.05.2022.

7. In view of the conduct of the petitioners to take the victim, who is the wife of petitioner no.3, to hospital for medical treatment immediately, notwithstanding that he previous application of bail was rejected by order dated 11.08.2022, the Court is of the considered opinion that custodial interrogation of the petitioners is not required.

8. In view of above, the Court is inclined to grant pre-arrest bail to the petitioners by providing that in the event of the arrest of the petitioners, namely, (1) Smti. Hamida Bibi, (2) Smti. Taslima Bibi, and (3) Sri Apijul Hoque in connection with the aforesaid case, they shall be released on bail on furnishing bail bond of Rs.50,000/- each with one solvent surety of like amount to the satisfaction of the arresting officer.

9. The pre-arrest bail is granted on the following conditions:

I. The petitioners shall make themselves available to the police or any other investigating agency or Court in the present case as and when required.

II. 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 Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

III. The petitioners shall not obstruct the smooth progress of the investigation/trial.

IV. The petitioners shall not misuse their liberty in any manner.

V. The petitioners shall appear before the I/O within 10 (ten) days from today and they shall continue to appear once in every 15 (fifteen) days till their appearance is dispensed with or charge-sheet is filed, whichever is earlier.

VI. The petitioners shall not leave the jurisdiction of Agomoni P.S. without intimidating the I/O of the case.

10. Application stands disposed of.

11. Case diary is returned.

JUDGE

Comparing Assistant