

GAHC010099382023



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

Case No. : Bail Appln./1638/2023

SORHAB MONDAL @ MD. SORHAB ALI AND ANR
S/O LT. ALIMUDDIN MONDAL @ BELLAL MONDAL,
VILL.- CHIRAKHOWA PT- V,
P.O.- ALOMGANJ,
P.S.- FAKIRGANJ,
DIST.- DHUBRI, ASSAM.

2: SOPIOR MONDAL @ MD SOFIOR RAHMAN
S/O SORHAB ALI

VILL.- CHIRAKHOWA PT- V

P.O.- ALOMGANJ

P.S.- FAKIRGANJ

DIST.- DHUBRI
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A ALI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

08-06-2023

Heard Mr. A. Ali, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

This Bail Application has been filed by the petitioners, namely, Sorhab Mondal @ Md. Sorhab Ali and Sopior Mondal @ Md. Sofior Rahman, seeking bail as they are in custody since 24.04.2023 in connection with Fakirganj Police Station Case No.78/2023 registered under Sections 498(A) of the IPC with added Section 302 of the IPC.

Learned counsel for the petitioners submits that an FIR dated 12.04.2023 was lodged by one informant, namely, Jahanara Khatun making allegations against the 8 (eight) persons shown as accuseds in the FIR including the present petitioners. It is submitted in the FIR that the deceased was the sister of the informant who got married to the petitioner no.1/accused person no.1, namely, Sorhab Mondal about 5 years ago. It is alleged that soon after their marriage, the accused person no.1 started torturing her sister both mentally and physically. It is also alleged that the accused persons had assaulted the deceased with brick and thereby causing injuries to person of the deceased with

the intention to kill her. When the informant came to know about these assaults, she was taken to the hospital by the informant for treatment. After her recovery, the accused no.1 took the deceased to his house. Again on 27.03.2023 when her sister became senseless because of physical assaults of the accused no.1 and other accused persons, the neighbourhood people took her to the Dhubri Hospital. But the accused persons rendered no help towards her treatment and as such, the informant admitted her in the hospital for her treatment but subsequently, she expired. Thereafter, the informant lodged the FIR dated 12.04.2023 which was received and registered as Fakirganj Police Station Case No.78/2023 registered under Sections 498(A) of the IPC and later Section 302 of the IPC was added. The petitioners were arrested on 24.04.2023 in connection with Fakirganj Police Station Case No.78/2023 registered under Sections 498(A) of the IPC with added Section 302 of the IPC and since then they are in custody.

Learned counsel for the petitioners submits that there might have been problems in the conjugal life of the deceased and the petitioner no.1 but the allegations that he along with the other accused persons named in the FIR had physically assaulted the deceased-his wife, as a result of which she succumbed to the injuries sustained, is completely a false and concocted allegation. It is submitted by the learned counsel for the petitioners that the petitioner no.1's

wife died because of the complications during the pregnancy because at that time she was pregnant for a few weeks. In this regard, learned counsel for the petitioners submits that medical documents enclosed to this petition show that she was taken to the Fakhuruddin Ali Ahmed Medical College, Barpeta for treatment and at the time of undergoing treatment she expired.

This Court earlier by order dated 26.05.2023 had called for the case diary and today, Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, has produced the case diary. Case diary produced has been perused along with the post-mortem report.

Upon perusal of the case diary it is seen that in the post-mortem report issued by the Fakhuruddin Ali Ahmed Medical College, Barpeta on 23.04.2023 that the death of the petitioner's wife was due to shock resulting from septicaemia. However, there is another injury report available in the case diary issued by the Dhubri Medical College on 26.04.2023 where it is stated that no external injuries were seen at the time of examination. The inquest report also does not reflect any external injuries on the deceased. The post-mortem report also does not refer in details to the injuries sustained by the deceased except as reflected in the opinion that the injury described was antemortem and caused by blunt force impact. The statements of the witnesses have been examined. There is no specific material incriminating the petitioners at this stage which is noticed from

the case diary. There are also no materials in the case diary to suggest that further custodial detention of the petitioners are necessary at this stage of investigation or that they will cause any impediment to the investigation carried on by the police. Taking into account all of the above as well as the period of detention undergone by the petitioners, this Court is inclined to allow this bail petition.

Accordingly, the petitioners, named above, shall be released on bail in connection with the above noted case, upon furnishing a bail bond of Rs.40,000/- (Rupees Forty Thousand) each with 1 (one) local surety of like amount to the satisfaction of the Chief Judicial Magistrate (CJM), Dhubri, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer of the case as and when required till completion of the investigation;
- (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 office; and

- (iv) That the petitioners shall not leave the jurisdiction of competent Court without obtaining prior written permission.

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

The Bail Application is accordingly allowed and disposed of.

Return the case diary.

JUDGE

Comparing Assistant