

GAHC010112152023



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

Case No. : Bail Appln./1833/2023

DIGANTA DAS AND ANR
S/O KARUNA DAS,
RESIDENT OF HOUSE NO. 08,
BHASAKARNAGAR,
NEAR BHASAKAR BIDYAPEETH,
P.S. GEETANAGAR,
DIST.- KAMRUP(M).

2: RINA BANIK @ RENU BANIK
W/O KARUNA DAS

RESIDENT OF HOUSE NO. 08

BHASAKARNAGAR

NEAR BHASAKAR BIDYAPEETH

P.S. GEETANAGAR

DIST.- KAMRUP(M)

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 30.06.2023

Heard Mr. S. Borthakur, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioners, namely, **Sri Diganta Das and Smti. Rina Banik @ Renu Banik**, in connection with **Geetanagar P.S. Case No. 103/2023**, registered under Section **304(B) of IPC**.

It is submitted by the learned counsel for the petitioners that the deceased is the wife of the petitioner No. 1 who died due to abdominal pain. On the day of the incident, the victim(deceased) was suffering from abdomen pain and to get relief from pain, she consumed some medicine and also took cold drinks and limcee tablet. Thereafter, she slept for 3(three) hours and after woke up, she could not take breath properly. Then, she was shifted to hospital wherein after examination by the doctor, she was declared as brought dead.

It is further submitted that the allegation of demand of dowry made against the petitioners are totally false and concocted. He also submits that prior to death of the victim, she gave birth to a child who is now 5(five) years old and as the petitioners are in custody, the child is now under the custody of CWC. He further submits that the accused-petitioners have been in custody for 47 days as on date with effect from 16.05.2023, the date of showing arrest of the petitioners in this case. Considering the background of the case as well as period of detention, petitioners may be enlarged on bail.

Mr. D.P. Goswami, learned Additional Public Prosecutor has raised objection in granting bail to the petitioners. He further submits that there is

sufficient incriminating materials against the petitioners. Therefore, bail prayer of the petitioners may not be considered at this stage.

Case diary is received and perused the same.

Perusal of the case diary, it appears that there is an allegation in the FIR that after their marriage, the petitioners used to torture the victim in connection with demand of dowry articles. Except the informant, no other witnesses have uttered a single word regarding demand of dowry articles by the petitioners.

However, postmortem report is available in the record which reveals that there is no remark regarding cause of death of the victim till receipt of chemical/toxicological report from FSL. The FSL report is also available in the record which reveals that no poison was found in the viscera of the deceased. The postmortem report is also silent regarding any other injury sustained by the victim on her body at the time of medical examination. It also appears that substantial part of investigation is complete.

Considering the materials in the case diary as well as the FSL report and the length of detention of the accused-petitioners in custody, this Court is of the view that further custodial interrogation of the accused-petitioners is not necessary in the interest of investigation of the case.

Accordingly, the accused-petitioners, named above, shall be released on bail in connection with **Geetanagar P.S. Case No. 103/2023**, registered under Section **304(B) of IPC**, on furnishing bail bond of **Rs.30,000/- each** with **two suitable sureties each** of the like amount, to the satisfaction of learned CJM, Kamrup(M), Guwahati.

The direction for bail is further subject to the conditions that the accused-petitioners:

(a) shall not leave the territorial jurisdiction of learned CJM, Kamrup(M),

Guwahati, without prior written permission from him;

(b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) 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.

In terms of the above, this bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant