

GAHC010151132023



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

Case No. : Bail Appln./2401/2023

SANJAY DAS AND ANR
S/O CHINTA HARAN DAS
R/O VILL- DHING
P.S. DHING
DIST. NAGAON, ASSAM

2: BANAMALI DEKA @ BANOMALI DEKA
S/O LATE AKADEHIA DEKA
R/O BHETAPARA
P.S. BASISTHA
GUWAHATI
DIST. KAMRUP (METRO)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 31-07-2023

Heard Mr. BK Mahajan, learned counsel for the petitioners and Mr. RJ Baruah, learned Addl. PP for the State respondent.

This is an application under Section 439 CrPC seeking bail by the petitioners namely Sanjay Das and Banamali Deka @ Banomali Deka in connection with Rupahihat PS case No. 292/2023 under Sections 302/ 201/34 IPC.

It is submitted by the learned counsel for the petitioners that both the petitioners are the lease holders of a beel wherein the dead body of the deceased was recovered. Both the accused were arrested purely on suspicion as they were found loitering with dao in their hands prior to the incident. Moreover, the post mortem report is silent whether any injury was found in the dead body of the deceased caused by sharp weapon like dao. Under such circumstance, bail may be granted to the accused/ petitioners.

On the other hand, learned Additional PP has raised objection in granting bail on the ground that investigation is still going on and post-mortem report is not complete as the viceras were kept for chemical examination and report is not yet received.

Perused the case diary alongwith the statement of the witnesses recorded so far.

The accused are the lease holders of the beel wherein the deceased entered into for fishing. Subsequently, the dead body was recovered under the water of the said beel. As per case diary, it reveals that there are strong suspicion against the petitioners that they killed the deceased. It also appears that the petitioners have been detained in custody for more than 35 days.

In view of the above and considering the materials available on record, the accused petitioners shall be released on bail on furnishing a bond of Rs. 25,000/ with one surety of the like amount each to the satisfaction of the learned SDJM, Kaliabar.

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

petitioners:

- (a) shall not leave the territorial jurisdiction of the learned SDJM, Kaliabar, without prior written permission from him/her;
- (b) shall not hamper with the investigation or tamper with the evidence of the case; and
- (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.

Send back the case diary.

JUDGE

Comparing Assistant