

GAHC010161192023



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

Case No. : AB/2595/2023

RUBUL HOSSAIN AND 3 ORS.
S/O JAHIRUL HOSSAIN @ HOQUE
R/O VILL- JHASKAL PART-III
P.S. AGOMANI
DIST. DHUBRI, ASSAM

2: ROMIZA BIBI
W/O JAHIRUL HOSSAIN @ HOQUE
R/O VILL- JHASKAL PART-III
P.S. AGOMANI
DIST. DHUBRI
ASSAM

3: REJINA KHATUN
D/O JAHIRUL HOSSAIN @ HOQUE
R/O VILL- JHASKAL PART-III

P.S. AGOMANI

DIST. DHUBRI
ASSAM

4: JAHIRUL HOSSAIN @ HOQUE
S/O LT. BABUR ALI
R/O VILL- JHASKAL PART-III

P.S. AGOMANI

DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM

REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

24.08.2023

Heard Mr. M.A. Islam, learned counsel for the applicants. Also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent and Mr. M.I. Hussain, learned counsel appearing for the informant.

2. This application, under Section 438 Cr.P.C., is preferred by the applicants, namely, Rubul Hossain, Romiza Bibi, Rejina Khatun and Jahirul Hossain @ Hoque, who have been apprehending arrest in connection with Agomani P.S. Case No.98/2023, under Sections 436/302/34 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Osman Gani on 03.06.2023. The essence of allegation made in the FIR is that on 02.06.2023, at about 12:30 p.m. accused Rubul Hossain, Romiza Bibi, Rejina Khatun, Anamul Hoque, Feroza Bibi and Jahirul Hossain pickup quarrel with his daughter and assaulted her by fastening her hand and leg and thereafter poured kerosene on her person and set her on fire. As a result, she sustained serious injuries and she succumbed to the injuries while she was taken to Dhubri Medical College and Hospital.

4. Mr. Islam, learned counsel for the applicants submits that the applicants are innocent and they are no way involved with the offence alleged in the FIR and that there was dispute between the applicant No.1 and the deceased and the applicant No.1,

through his advocate had issued one notice to the deceased to resume conjugal life with the applicant No.1 and that the applicants are ready to cooperate with the investigating agency and applicant No.3 Rejina Khatun is a student and she will appear in the HSLC examination and therefore, it is contended to enlarge them on pre-arrest bail.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the offences are serious in nature and there is material in the case diary to show complicity of the accused persons with the offence alleged and therefore, it is contended to dismiss this petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary produced before this Court with the assistance of Mr. Lahkar, learned Additional P.P.

7. It appears from the case diary that the I.O. has collected sufficient materials against the applicants. The I.O. has also collected one dying declaration recorded by Dr. Firoz Ahmed of Dhubri Medical College & Hospital on 02.06.2023, wherein the deceased has implicated her father-in-law, mother-in-law and sister-in-law with the offence alleged in the FIR. Further, it appears from the said dying declaration that her husband was not present at the relevant time of incident.

8. Having considered above and also having considered the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant No.2 Romiza Bibi, applicant No.3 Rejina Khatun and applicant No.4 Jahirul Hossain @ Hoque. Accordingly, the prayer in respect of applicant Nos.2, 3 and 4 stands rejected.

9. However, in view of the materials collected so far in the case diary against the applicant No.1 Rubul Hossain, this Court is of the view that his custodial interrogation seems to be not warranted here in this case and accordingly, this Court is inclined to allow his prayer. It is provided that in the event of arrest of the applicant No.1 Rubul Hossain in connection with Agomani P.S. Case No.98/2023, under Section 436/302/34 IPC, he shall be enlarged on pre-arrest bail on his executing a bail bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is,

however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) The applicant 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; and
 - (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Dhubri, without prior permission.
10. In terms of above, this anticipatory bail application stands disposed of.
11. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant