

GAHC010161522023



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

Case No. : AB/2575/2023

AKHIRUL ISLAM AND ANR
S/O- ABDUL AZAD, R/O- VILL.- BOALIA, P.O. RADHAMADHAB HAT, P.S.
MANKACHAR, DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-
783131.

2: LIPI SULTANA
W/O- AKHIRUL ISLAM
R/O- VILL.- BOALIA
P.O. RADHAMADHAB HAT
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783131

VERSUS

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

Advocate for the Petitioner : MR. M ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 17.08.2023

Heard Mr. M. Islam, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Addl. P.P. for the State.

2. Apprehending arrest in connection with Mankachar P.S. Case No. 188/2023 under sections 147/148/149/447/427/302 IPC, the petitioners, (1) Akhirul Islam, and (2) Lipi Sultana have filed this application for pre-arrest bail.

3. The learned counsel for the petitioners has submitted that the petitioner have falsely been implicated in the alleged offence and that they did not assault the deceased.

4. The learned Addl. P.P. has produced the case diary and has opposed the prayer for bail.

5. Perused the case diary. The prosecution case is that on 28.04.2023, an FIR was lodged by Akidul Islam before the Mankachar P.S., stating that on 27.04.2023, at about 8.30 PM, the accused persons, namely, Atarul Islam, Akhirul Islam, Abdul Azad, Lipi Sultana, Mofidul Islam, had trespassed into his house armed with *dao*, dagger, rod and wooden *batam* (i.e. sawn wooden piece), and broke the windows of his house and when his sister Azima Khatun had obstructed them, accused no. 1 hit his sister's head with a piece of log with an intention to kill her, thereby causing injury on her head and the other accused persons kicked his sister. His sister was brought to Gazarikandi Hospital, where she was referred outside and that she died while being taken to Guwahati. Accordingly, Mankachar P.S. Case No. 188/2023 under sections 147/148/149/447/302 IPC was registered.

6. It is noted that several eye-witnesses examined by the I.O. have specifically named the FIR named accused no. 1 as the persons who had assaulted the deceased with a wooden *batam* (i.e. sawn wooden piece). As per

the post mortem report, "... *the death was due to come as a result of the injuries sustained over the head as described. All the injuries were ante mortem and caused due to blunt force impact.*"

7. It is noted that pursuant to interim bail granted by this Court by order dated 28.07.2023, the petitioners had appeared before the I.O. and their statement have been recorded. Therefore, although the case diary discloses sufficient incriminating materials against the petitioners of participating in the attack on the informant, but as they have appeared before the I.O., the Court is of the opinion that they are not a flight risk.

8. Therefore, the Court is inclined to make the interim bail granted by order dated 28.07.2023, absolute on the same terms. In addition to previous terms, the Court is inclined to further provide that both the petitioners shall once again appear before the I.O. within a period of 10 (ten) days from the date of this order and shall continue to so appear once a month till their personal appearance is dispensed with or charge-sheet is submitted, whichever is earlier.

9. This application is disposed of.

10. Return back the case diary.

JUDGE

Comparing Assistant