

GAHC010174822023



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

Case No. : Bail Appln./2815/2023

BHUPEN DUWARAH AND ANR
S/O LT. BHOGESWAR DUWARAH
VILL- NO GAON
DEOGHORBORI, P.O. BORDOLONI
P.S. GOGAMUKH
DIST. DHEMAJI, ASSAM

2: SRI HORENDRA GOGOI
S/O SRI TILSWAR GOGOI
VILL- NO GAON ,DEOGHORBORI
P.O. BORDOLONI ,P.S. GOGAMUKH,
DIST. DHEMAJI, ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S Y AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-08-2023

Heard Mr. S.Y.Ahmed, learned counsel for the accused persons and also heard Mr. R.J.Baruah, learned Addl. P.P. for the State respondent.

This application, under Section 439 Cr.P.C. is preferred by accused No. 1. Sri Bhupen Duwarah and No.2. Sri Horendra Gogoi, who are languishing in jail hazot in connection with Gogamukh P.S. Case No.38/2023, u/s 302/34 IPC corresponding to G. R. No. 151/2023 (GMK) since 1.7.2023, for grant of bail.

It is to be noted herein that Gogamukh P.S. Case No.38/2023,u/s 302/34 IPC corresponding to G. R.No. 151/2023, has been registered on the basis of one FIR lodged by Smt Pinki Gogoi on 6.3.2023, wherein it is alleged that one Abhijit Gogoi, Kanak Gogoi and Sri Bhaben Duwara and some other unknown persons with whom her father Lambit Gogoi was working as Helper at Indian Oil Depot, Dhakuakhana Road are suspected to be involved in the murder of her father Lambit Gogoi on the intervening night of 28.02.2023.

Mr. Ahmed, learned counsel for the accused, submits that both the accused were arrested on 1.7.2023, and since then they are languishing in jail hazot for last 52 days and they are no way involved with the offence alleged in the FIR, and therefore, it is contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. has produced the case diary before this Court and fairly submits that though the post mortem report of the deceased reveals that the death of the deceased was due to comma, as a result of head injury, which was anti mortem and caused by blunt forced impact, yet the materials collected so far in the case diary, are inadequate to show the complicity of the accused persons with the offence alleged in the FIR.

Having heard the submissions of learned Advocates for both sides , I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P.

In view of the materials collected in the case diary and also in view of the

period of detention in jail hajot, their further custodial detention seems to be not warranted in the interest of investigation. And accordingly, it is provided that on furnishing a bond of Rs.50,000/- each with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Dhemaji, both the accused persons be enlarged on bail.

In terms of above, the bail application is disposed of.

Case diary be returned.

JUDGE

Comparing Assistant