

GAHC010178552023



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

Case No. : AB/2880/2023

JIARUL HOQUE @ JIARUL ISLAM AND ANR.
S/O NASIR UDDIN,
VILL.- DHUPGURI PATHAR, P.O.- DHUPGURI, P.S.- DHING, DIST.- NAGAON,
ASSAM, PIN- 782123.

2: NASIR UDDIN
S/O SIRAJ UDDIN @ ANAMAT ULLAH

VILL.- DHUPOGURI PATHAR
P.O.- DHUPGURI
P.S.- DHING
DIST.- NAGAON
ASSAM
PIN- 782123

VERSUS

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

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 29.09.2023

- 1.** Heard Mr. M. U. Mahmud, learned counsel for the petitioners. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973, has been filed by the petitioners, namely, (1) Jiarul Hoque @ Jiarul Islam, and (2) Nasir Uddin, who are apprehending their arrest in connection with Dhing P. S. Case No. 128/2023 under Section 302/34 of the Indian Penal Code.
- 3.** The gist of accusation against the present petitioners one Marjina Begum lodged an FIR on 01.08.2023 before the Officer-In-Charge of Dhing Police Station, naming five numbers of the accused in the FIR including the present petitioners, inter-alia, alleging that on 28.07.2023 at about 10.30 PM, as per the instructions of the present petitioners the other accused persons named in the FIR, assaulted the husband of the first informant. Thereafter, the husband of the informant was brought to the house of the informant and when the informant went to her mother's house, her husband was again tied with a rope around his neck and thereafter, he was hanged with a rope and on the next morning, the son of the first informant saw the husband of the first informant hanging with a rope.
- 4.** On receipt of the said FIR, Dhing P. S. Case No. 128/2023 was registered.
- 5.** Learned counsel for the petitioners submits that the allegation against the present petitioners is only that they have instructed the other accused person named in the FIR to assault the husband of the first informant however, it is submitted that the said allegation is false and there is no evidence in that

regard.

6. It is also submitted that as no allegation of assault directly by the present petitioners has been made by them in the FIR as they are the permanent resident under jurisdiction of Dhing Police Station, they shall co-operate in the investigation.

7. On the other hand, Mr. R. R. Kaushik, learned Additional Public Prosecutor produced the case diary of the Dhing P. S. Case No. 128/2023 and has submitted that though there are evidence of witnesses that there was an altercation between the petitioners and the deceased and the present petitioners also slapped and assaulted the deceased. However, as regards the allegation of strangulating the husband of the first informant or as regards instigating the accused nos. 3, 4 and 5 by the present petitioners as of now there is no evidence on record to that effect in the case diary.

8. Considering the submission made by the learned counsel for the parties as well as considering the materials in the case diary, the petitioners, namely, (1) Jiarul Hoque @ Jiarul Islam, and (2) Nasir Uddin are directed to appear before the Investigating Officer of Dhing P. S. Case No. 128/2023 and co-operate in the investigation of the case within a period of ten (10) days from the date of this order and if they do so within the stipulated period of time, in the event of arrest in connection with Dhing P. S. Case No. 128/2023, the above named petitioners shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount to the satisfaction of the arresting authority subject to the following conditions:

- i. That the petitioners shall not directly or indirectly make any inducement, threat, or promise to the first informant or any other person who is acquainted with the facts of the case, so as to dissuade him from

disclosing such facts to the Investigating Officer of the said case.

ii. That the petitioners shall co-operate with the Investigating Officer of the Dhing P. S. Case No. 128/2023.

9. With the above observations, this anticipatory bail application is disposed of.

10. Send back the case diary.

JUDGE

Comparing Assistant