

GAHC010192152023



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

**Case No. : AB/2992/2023**

NAKIB @ NEKIB UDDIN AHMED AND 2 ORS  
S/O REZOB ALI  
R/O MALARA (ISLAMPUR)  
P.S. BAIHATA CHARIALI  
DIST. KAMRUP, ASSAM

2: MRS. MOROMI BEGUM @ JESMIN BEGUM  
W/O NAKIB ALI  
R/O MALARA (ISLAMPUR)  
P.S. BAIHATA CHARIALI  
DIST. KAMRUP  
ASSAM

3: MD. ISMAIL ALI  
S/OLT. ELIYAS ALI  
R/O MALARA (ISLAMPUR)  
P.S. BAIHATA CHARIALI  
DIST. KAMRUP  
ASSA

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. P DEKA**

**Advocate for the Respondent : PP, ASSAM**

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

**ORDER**

**Date : 24.11.2023**

Heard Mr. P. Bora, learned senior counsel assisted by Mr. R. Hoque learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the petitioners, namely, 1. Nakib Ali @ Nekib Uddin Ahmed, 2. Moromi Begum @ Jesmin Begum and 3. Md. Ismail Ali, who are apprehending their arrest in connection with Baihata Chariali P. S. Case No. 215/2023 registered under Sections 306/34 of IPC.

The learned senior counsel has submitted that during pendency of this anticipatory bail application, the petitioner no. 1 was arrested in connection with Baihata Chariali P. S. Case No. 215/2023 and he was also allowed to go on bail by this Court by order dated 17.11.2023 passed in Bail Application No. 4041/2023.

The gist of the accusation in this case against the present petitioner is that on 15.07.2023 one Farida Begum had lodged an FIR before the Officer-in-charge of Baihata Chariali Police Station inter-alia, alleging that her son namely, Merajul Ali was falsely accused of stolen mobile phone of petitioner no. 1 and for the said accusation, he was mentally and physically harassed by the petitioners.

Thereafter, the son of the first informant under mental pressure and agony committed suicide by jumping into the Barnodi River.

Learned senior counsel for the petitioners has submitted that there is no aid as abetting on the part of the petitioners.

On the other hand, learned Additional Public Prosecutor has produced the case dairy of the Baihata Chariali P. S. Case No. 215/2023 and has submitted that the deceased was mentally harassed by the present petitioners to return him mobile phone which they accused the deceased to have stolen from them.

I have considered the submissions of learned counsel for both the sides and have gone through the materials on record including the case diary of Baihata Chariali P. S. Case No. 215/2023 .

Considering the fact that the Investigating Officer has in the meanwhile recorded the statements of the witnesses who are relevant witnesses under Section 161 of the Code of Criminal Procedure, 1973 and also considering the fact that one of the co-accused who was arrested in connection of Baihata Chariali P. S. Case No. 215/2023 has also been granted bail by this Court, the custodial detention of the present petitioners does not appear to be necessary if they otherwise co-operate with the Investigating Officer.

In view of the above, the petitioners namely, 1. Nakib Ali @ Nekib Uddin Ahmed, 2. Moromi Begum @ Jesmin Begum and 3. Md. Ismail Ali, are hereby directed to appear before the Investigating Officer of Baihata Chariali P. S. Case No. 215/2023 within a period of 10 days from the date of this order and co-operate with the Investigating Officer in fair completion of investigation and if they do so within the said period, in the event of their arrest in connection with Baihata Chariali P. S. Case No. 215/2023, they 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.

With the above, observation, this anticipatory bail application is hereby disposed of.

Send back the case diary.

**JUDGE**

**Comparing Assistant**