

GAHC010212792023



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

Case No.

AB/3106/2023

FAKHAR UDDIN
S/O MANOHAR ALI
R/O VILL- PUB JARNAI
P.O. KAROIGURI AND P.S. MURAJHAR
DIST.HOJAI
ASSAM
PIN-782440

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR B D DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

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

ORDER

28.09.2023

Heard Mr. B.D. Das, learned Senior Counsel, assisted by Mr. H.K. Sarma, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Fakhar Uddin, who is apprehending his arrest in connection with Murajhar P.S. Case No. 164/2023 under Sections 302/34 of the Indian Penal Code.

The gist of accusation in this case is that on 07.07.2023, one Hussain Ahmed lodged an FIR before the Officer-In-Charge of Murajhar Police Station, *inter-alia*, alleging that his niece was married to one Hasibur Rahman, who has been named as accused No. 1 in the said FIR about 4 years prior to lodging of the FIR.

It is also alleged in the FIR that the husband of the niece of the first informant used to torture his niece along with other family members.

On 06th July, 2023 at about 8:49 PM, the first informant got information that his niece had committed suicide by hanging herself. However, on reaching the matrimonial home of the niece of the first informant, he found his niece hanging to a bamboo inside her room and considering the circumstances which he observed he suspected that the husband and the family members of her niece had committed murder of his niece. On receipt of the FIR, Murajhar P.S. Case No. 164/2023 has been registered.

Learned counsel for the petitioner has submitted that the husband of the

deceased has already been arrested and the accused No. 2 and 5 named in the FIR, namely, Habibur Rahman as well as Samsul Haque were already granted anticipatory bail by this Court.

It is also submitted by the learned counsel for the petitioner that the present petitioner does not reside along with the accused No. 1 and he reside about 500 metres away from the residence of the deceased and he is not in any way involved in the offence alleged in the FIR. It is also submitted that the present petitioner is an aged person of 68 years and he shall co-operate with the investigation.

On the other hand, Ms. S.H. Bora, learned Additional Public Prosecutor, has produced the case diary of Murajhar P.S. Case No. 164/2023 and has submitted that materials in the case diary indicates that the prime culprit in this case seems to be the husband of the deceased, who has already been detained behind the bars.

I have perused the materials available on record including the case diary of Murajhar P.S. Case No. 164/2023 and have considered the submissions made by learned counsel for both the sides.

Considering the fact that the prime accused in this case appears to be the husband of the deceased and also considered the nature of materials available in the case diary against the present petitioner, his custodial detention does not appear to be necessary for fair completion investigation of the case. Hence, the petitioner, namely, Fakhar Uddin is hereby directed to appear before the Investigating Officer of Murajhar P.S. Case No. 164/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation. If he does so within the stipulated period of time, in the event of her arrest in connection with Murajhar P.S. Case No. 164/2023, he shall be allowed to go on

bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority subject to the conditions that:-

(i) he 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 such person from disclosing such facts to the Investigating Officer; and

(ii) he shall co-operate in the investigation.

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

Send back the case diary.

JUDGE

Comparing Assistant