

GAHC010212042023



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

Case No. : Bail Appln./3346/2023

HAFIJUR RAHMAN @ HAFIJUR RAHMAN AND ANR
S/O ROHIM ALI
R/O NO. 1 PALAHARTARI
P.S. NAGARBERA
DIST. KAMRUP, ASSAM

2: ROHIM ALI
S/O LT. RIYAZUDDIN
R/O NO. 1 PALAHARTARI
P.S. NAGARBERA
DIST. KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

06.10.2023

Heard Mr. A. Paramanik, learned counsel for the petitioners. Also heard Mr.

K.K. Das, learned Additional Public Prosecutor for the State of Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, Hafijur Rahman @ Sri Hafijur Rahman and Rohim Ali, who have been detained behind the bars since 06.09.2023 in connection with Nagarbera P.S. Case No. 91/2023 under Sections 304-B / 34 of the Indian Penal Code.

The accusation in this case is that on 06.09.2023, one Nasib Ali lodged an FIR before the Officer-In-Charge of Nagarbera Police Station, *inter-alia*, alleging that the daughter of the first informant was married to the petitioner no. 1 about 5 years prior to lodging of the FIR and since the date of the marriage, the accused persons named in the FIR including the present petitioners used to subject her to cruelty both physically and mentally. It is also alleged that the petitioners used to demand dowry from the daughter of the first informant and on 05.09.2023, the accused persons named in the FIR poured petrol on the daughter of the first informant and burnt her. It is stated in the FIR that the daughter of the first informant was taken to GMCH however she succumbed to her injuries at Hospital. On receipt of the said FIR, Nagarbera PS case no. 91/2023 was registered.

Mr. A. Paramanik, learned counsel for the petitioners has submitted that the petitioners are innocent and they have been implicated by the father of the deceased falsely in the FIR lodge against them. It is also submitted by the learned counsel for the petitioners that the petitioners are languishing behind the bars since the last 30 days and considering the period of detention, it is prayed that they may be allowed to go on bail.

On the other hand, Mr. K.K. Das, learned Additional Public Prosecutor

vehemently opposed the grant of bail to the present petitioners on the ground that the offence involved in this case is heinous in nature and there are incriminating materials against the present petitioners in the case diary. However, he fairly submits that otherwise the investigation has been fairly progressed and statements of the accused persons as well as witnesses have been recorded.

Considering the submissions made by learned counsel for both sides as well as considering the fact that though there are incriminating materials against the present petitioners in the case diary, however, as the investigation has fairly progressed and also considering the period of detention already undergone by the present petitioners, their further custodial detention does not appear to be necessary for fair completion of the investigation of Nagarbera P. S. Case No. 91/2023.

In view of the above, the above named petitioners are hereby allowed to go on bail Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount to the satisfaction of the learned Judicial Magistrate First Class, Boko subject to condition that:

- 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 such persons from disclosing such facts to the Investigating Officer of the said case or any Court.
- ii. That the petitioners shall co-operate with the Investigating Officer of the Nagarbera P. S. Case No. 91/2023.

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

Sent back the case diary.

JUDGE

Comparing Assistant