

GAHC010239192022



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

Case No. : AB/3683/2022

MANINDRA DAS AND 3 ORS
S/O LATE SRIDHAR DAS
R/O VILL- ARANGAJULI, P.S. TAMULPUR, DIST. TAMULPUR, BTAD, ASSAM

2: SRI AJIT DAS
S/O SANADEV DAS

R/O VILL- ARANGAJULI
P.S. TAMULPUR
DIST. TAMULPUR
BTAD
ASSAM

3: SRI TAPASH DAS
S/O CHANDRA KR. DAS
R/O VILL- ARANGAJULI
P.S. TAMULPUR
DIST TAMULPUR
BTAD
ASSAM

4: SRI SHANKAR CH. MALAKAR
S/O SAHADEV MALAKAR

R/O VILL- BISHNUPUR
P.S. TAMULPUR
DIST. TAMULPUR BTAD
ASSA

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 09.01.2023

Heard Mr. H.R.A. Choudhury, learned senior counsel assisted by Mr. A. A. R. Karim, learned counsel for the petitioners as well as Mr. Bankim Sarma, learned APP for the State.

The petitioners, namely, (1) Manindra Das, (2) Ajit Das, (3) Tapash Das, and (4) Shankar Ch. Malakar, who are apprehending arrest in connection with Tamulpur P.S. case no.163/2022 under sections 427/306/34 I.P.C. have filed this application under section 438 Cr.P.C., for pre-arrest bail.

The learned senior counsel for the petitioners relied on the case of ***Gurcharan Singh Vs. State of Punjab*** reported in ***(2017) 1 SCC 433*** to project that to constitute abetment, intention and involvement of accused to aid or instigate commission of suicide is imperative and therefore, it is submitted that the petitioners are not the members of the family of Riya Das, the girl who is allegedly married to the deceased and that they were only co-villagers who attended the marriage.

In the said context, it is observed that the prosecution case is that the victim was kidnapped/abducted on 03.09.2022 and the police had recovered him and taken to the police outpost from where he was allowed to go home and the deceased was abducted again.

Therefore, this is not a case where there was a pre-arranged marriage, where invited guests were present. This is a solemnized marriage after kidnapping the victim and therefore, it cannot be rule out that the petitioner did not participated in the forceful marriage of the deceased with the bride.

The learned APP has produced the case diary and has opposed the prayer for interim bail. On a perusal of the case diary, it appears that the deceased namely, Dhananjoy Nomo Das had committed suicide on 04.09.2022. It also appears that on 03.09.2022, the FIR named accused nos.4, 5 and 6 along with others had abducted the deceased from his shop and he was taken to the house of one Riya Das where he was assaulted and was forced to marry her. On receipt of such information the police personnel from Nagrijuli Outpost had recovered the deceased and then he was taken to the police outpost, from where he was allowed to go home. However, some of the witnesses examined so far have stated that the FIR named accused persons had once again abducted the said deceased from road while he was returning from the police station, and his Court marriage was solemnized at night with the said Riya Das. Thereafter on 04.09.2022, the village people had found the deceased hanging on a tree behind his rented house.

Therefore, this Court is of the considered opinion that this is not a fit case to enlarge the petitioners, namely, (1) Manindra Das, (2) Ajit Das, (3) Tapash Das, and (4) Shankar Ch. Malakar on pre-arrest bail.

Return the case diary.

The anticipated bail application is disposed of.

JUDGE

Comparing Assistant