

GAHC010241852022



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

Case No. : AB/3517/2022

AJAJUL HAQUE AND ANR
S/O SOKMOT ALI
VILL- NO. 2 BAMUNBARI
P.O. BOKO
DIST. KAMRUP (R), ASSAM

2: SAKOWAR ALI
S/O SOKMOT ALI
VILL- NO. 2 BAMUNBARI
P.S. BOKO
DIST. KAMRU (R)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD A RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

28.06.2023

Heard Mr. A. Ahmed, learned counsel appearing for the petitioners. Also

heard Mr. D.P. Goswami, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This second under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **1. Ajajul Haque and 2. Sakowar Ali** apprehending arrest in connection with **Boko P.S. Case No. 1055/2021** registered u/s **447/366/376/302/34** of the IPC r/w Section **4** of the POCSO Act.

The earlier pre-arrest bail application of the petitioners being AB No.4352/2021 was rejected by this Court vide order, dated 27.09.2022.

The Case diary, as called for, is placed before the Court.

The FIR reveals the allegation of kidnapping of the minor daughter of the informant by the FIR named accused persons on 12.12.2021 at about 9 p.m. and thereafter, commission of rape and murder.

Mr. A. Ahmed, learned counsel appearing for the petitioners, submits that the petitioners are falsely implicated in the case. Mr. Ahmed submits that the victim, in fact, sustained fatal injuries in a road accident while she was returning from a marriage ceremony in her neighbouring village and as such, custodial detention of the petitioners may not be warranted in connection with the instant case.

Mr. D.P. Goswami, learned Addl. Public Prosecutor, submits that one Taijuddin Ali is the prime accused in the case and there is prima facie indication of a road mishap involving motorcycle whereon the said accused and the deceased were travelling, however, the incident of the accident is yet to be confirmed.

The post-mortem report shows that the deceased sustained multiple

injuries on her person and in regard to the opinion it is noted that the cause of death was kept pending till receipt of the chemical analysis report from the F.S.L. The F.S.L. report on the viscera reveals that no poison was found. Therefore, the doctor has reported finally that the death was due to spinal shock resulting from injuries sustained on cervical vertebrae.

It is further noticed that the said Taijuddin Ali had also sustained simple injury caused by blunt weapon.

The eye witnesses accounts show that both Taijuddin and the victim were found lying on the road after meeting with an accident and then, the passersby shifted them to the hospital for treatment, but, the victim girl was declared brought dead.

In view of the above, this Court is of the considered opinion that custodial interrogation of the petitioners may not be warranted in the interest of the ongoing investigation.

Accordingly, it is provided that in the event of arrest, each of the petitioners, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs.20,000/- (Rupees Twenty Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 7 days, failing which, on and from the 8th day this pre-arrest bail order shall have no force; and
- (ii) That the petitioners 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 him from disclosing such facts to

the Court or to any police officer.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant