

GAHC010247822023



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

Case No. :

Bail Appln./3970/2023

BARNALI DAS AND ANR
D/O RAMEN DAS
R/O NO. 2 MANAHKUCHI
P.S.-HAJO
DIST-KAMRUP
ASSAM

2: SARU DAS @ CHARU BALA DAS
W/O RAMEN DAS
R/O NO. 2 MANAHKUCHI
P.S.-HAJO
DIST-KAMRUP
ASSAM
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. A AHMED
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

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

ORDER

17.11.2023

Heard Mr. A. Ahmed, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, (1) Barnali Das and (2) Saru Das @ Charu Bala Das, who are detained behind the bars since 13.10.2023 in connection with Hajo P.S. Case No. 614/2023 under Section 120B/498A/302 of the Indian Penal Code.

The gist of accusation against the present petitioners is that on 12.10.2023, one Mitu Das has lodged an FIR before the Officer-In-Charge of Hajo Police Station, *inter-alia*, alleging that the sister of the first informant, namely, Manisha Das eloped with the accused No. 1 named in the FIR, namely, Deepjyoti Das and were living a marital life thereafter. However, it is alleged in the FIR that after that she was subjected to physical and mental torture.

It is further alleged in the FIR that on 12.10.2023, the accused persons named in the FIR had killed the sister of the first informant and have tried to give it a colour of suicide.

Learned counsel for the petitioners has submitted that both the petitioners are woman and petitioner No. 1 is the sister-in-law and petitioner No. 2 is the mother-in-law of the deceased.

It is further submitted that the allegations levelled against the present petitioner is not true.

It is also submitted by the learned counsel for the petitioners that in the

meanwhile, the husband of the deceased, namely, Deepjyoti Das has already been arrested.

It is also submitted that there was some matrimonial dispute between the husband and wife due to which the deceased has committed suicide and the petitioners are no way involved in the death of the Manisha Das.

On the other hand, learned Additional Public Prosecutor has vehemently opposed the grant of bail to the present petitioners on the ground that though the post-mortem examination report is available in the case diary, however, it is found in the post-mortem report that no opinion has yet been given by the doctors, who conducted the post-mortem examination report.

It is also submitted by the learned Additional Public Prosecutor that it is suspected that the deceased might have been administered some poison and which may be ascertained only after receipt of the FSL report.

I have considered the submissions made by learned counsel for both the sides and has perused the materials available in the case diary including the post-mortem examination report of the deceased. It appears that though the final opinion as regard to cause of death has been kept pending till the receipt of the chemical and toxicological examination report, however, at this stage, it appears that the ligature marks were found on the neck of the deceased and she was found hanging when her dead body was recovered.

It further appears from the case diary that Investigating Officer has recorded the statement of witnesses who are neighbours of the present petitioners and they have stated before the Investigating Officer that their used to be occasional quarrels between the family members of the petitioners as well as the deceased.

Nothing apart from this is available in the case diary at this stage and

therefore, it appears that at this stage apart from suspicion there is nothing else against the present petitioners to justify their further detention for the sake of fair investigation of this case, if they otherwise co-operates in the investigation.

It also appears that the submissions made by learned Additional Public Prosecutor that the petitioners might have been administered poison does not find any support from any of the witnesses whose statement has been recorded by the Investigating Officer.

In view of above, the above-named petitioners, are hereby allowed to go on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the learned Judicial Magistrate First Class, Hajo, Kamrup with following conditions that:-

(i) both the above-named petitioners shall co-operate in the investigation and shall appear before the Investigating Officer as and when so required for the sake of fair completion of the investigation of the case; and

(ii) both the above-named petitioners shall not directly or indirectly make any inducement threat or promise to the victim or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

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

Send back the case diary.

JUDGE

Comparing Assistant