

GAHC010247822023



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

Case No. : AB/3711/2023

RAMEN DAS AND ANR
S/O LATE RAMESH DAS, R/O NO. 2 MANAHKUCHI, P.S.-HAJO, DIST-
KAMRUP, ASSAM

2: PANKAJ DAS
S/O RAMEN DAS
R/O NO. 2 MANAHKUCHI
P.S.-HAJO
DIST-KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, 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 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, (i) Ramen Das and (ii) Pankaj Das, who is apprehending his arrest in connection with Hajo P.S. Case No. 614/2023 under Section 120B/498A/302 of the Indian Penal Code.

The gist of accusation in this case is that on 14.09.2023, one S. Marak has lodged an FIR before the Officer-In-Charge of Kokrajhar Police Station, *inter-alia*, alleging that on 13.09.2023 at about 11:00 AM, the named accused persons including the present petitioner, entered into the house of the first informant and assaulted the husband of the first informant causing injuries on the person of the husband of the first informant.

Learned counsel for the petitioner has submitted that the petitioner No. 1 is aged about 63 years and who is the father-in-law of the deceased and is no way connected with the offence alleged in the FIR, as regards, petitioner No. 2 is concerned, it is submitted that he is the brother-in-law of the deceased and he is also no way connected with the offence alleged against named in the FIR.

It is further submitted that the main accused Deepjyoti Das has already been arrested and is detained behind the bars.

It is further submitted by the learned counsel for the petitioners that the petitioners are ready to co-operate with the Investigating Officer in completion of the investigation.

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 regards 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 the 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, this Court is of the considered opinion that custodial detention of the above named accused persons does not appear to be necessary, if the petitioners co-operates with the Investigating Officer in the investigation.

Hence, both the above-named petitioners, are hereby directed to appear before the Investigating Officer of Hajo P.S. Case No. 614/2023 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 his arrest in connection with Hajo P.S. Case No. 614/2023, the above named petitioner shall be allowed to go on interim bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the 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