

GAHC010248952022



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

Case No. : AB/3616/2022

DIGANTA BORAH
S/O LATE PRAFULLA BORAH
A RESIDENT OF VILL- MALARGAON,
P.O. SOOTEA, P.S. SOOTEA, DIST. BISWANATH, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20-01-2023

Heard Mr. M.A.I. Hussain, learned counsel for the petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Diganta Borah has approached this Court seeking the

benefit of pre-arrest bail, apprehending his arrest, in connection with Sootea Police Station Case no. 65/2022 registered for offences punishable under Sections 294/506/306, Indian Penal Code [IPC].

3. The informant in the First Information Report [FIR], lodged on 26.08.2022, has *inter alia* made mention of consumption of poison by his brother, Parash Bordoloi on 04.08.2022. The informant's brother, Parash Bordoloi expired on 06.08.2022 during treatment at the Tezpur Medical College & Hospital [TMCH]. Subsequently on 12.08.2022, the informant discovered that the deceased had taken a loan from M/s Mahindra Finance to purchase a vehicle bearing registration no. AS-12/P-2464 [Maruti Swift Dzire] and an amount of Rs. 3,42,950/- stood as outstanding installment due against the deceased. In view of such outstanding dues, the deceased was served a notice by M/s Mahindra Finance. The petitioner, who is a driver by profession, is known to the deceased and the vehicle was under his charge. The informant has suspected that because of the pressure his brother [Parash Bordoloi] faced due to non-payment of loan amount and exertion of pressure from the petitioner, he was compelled to commit suicide.

4. Mr. Sharma, learned Additional Public Prosecutor has submitted, on instruction, that after completion of investigation in connection with Sootea Police Station Case no. 65/2022, the Investigating Officer [I.O.] of the case has submitted a charge sheet under Section 173[2], CrPC vide Charge Sheet no. 106/2022 dated 30.12.2022.

5. As the petitioner has been granted interim protection by order dated 06.12.2022 whereafter he has joined the investigation by appearing before the Investigating Officer [I.O.] of the case and the charge sheet has been submitted after completion of investigation thereafter, this application preferred under

Section 438, CrPC is closed providing that the benefit of pre-arrest bail under Section 438, CrPC granted in favour of the petitioner by order dated 06.12.2022, if he is charge-sheeted, shall continue to be in effect till the petitioner's appearance before the learned jurisdictional trial Court on the date fixed for his appearance in the summons, served upon him, to be issued by the learned jurisdictional trial Court. It is observed that upon his such appearance before the learned jurisdictional trial Court, the petitioner will be at liberty to prefer an application seeking regular bail and in the event such an application is preferred by the petitioner, the learned jurisdictional trial Court will consider the same on its own merits and in accordance with law.

JUDGE

Comparing Assistant