

GAHC010250612023



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

Case No. : Bail Appln./4082/2023

HABIB ULLAH
S/O- LATE ASAN ULLAH, R/O- TINGRAI DOOM GAON, P.S. DULIAJAN,
DIST.- DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 21.11.2023

Heard Mr. S. M. Abdullah P, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Habib Ullah* who has been detained behind the bar since 25.09.2023 (since last 58 days) in connection with Duliajan P.S. Case No. 236/2023 under Sections 498(A)/302/304(B) of the

Indian Penal Code.

The gist of accusation against the present petitioner is that on 25.09.2023, one Mustt. Meherun Nessa had lodged an FIR before the Officer-in-Charge of Duliajan Police Station, *inter alia*, alleging that the daughter of the first informant was married to the present petitioner and after the marriage she was subjected to cruelty both physically and mentally and it is further alleged in the FIR that on 24.09.2023, the present petitioner along with his brother and mother as well as sister confined the daughter of the first informant in a room and killed her by wrapping a cloth around her neck and thereafter hanged her to a ceiling fan.

Learned counsel for the petitioner submits that allegations levelled against the present petitioner in the FIR are not true. It is submitted in fact that the wife of the present petitioner had committed suicide. It is further submitted by learned counsel for the petitioner that the petitioner has been detained behind the bar since last 58 days and considering the period of detention he may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Duliajan P.S. Case No. 236/2023 and has vehemently opposed the grant of bail to the present petitioner on the ground that though the post-mortem examination report is available, however, the cause of death could not be ascertained and it is kept pending and the viscera of the dead body has been sent to forensic laboratory for examination as to whether any poison has been administered or not. It is also submitted by learned Additional Public Prosecutor that there is material on record to suggest that the petitioner was subjected to cruelty before alleged offence.

I have considered the submissions made by learned counsel for both sides and have perused the material in the case diary.

It appears from the post-mortem examination report that though the final opinion on the cause of death has been kept pending, however, it reveals from the said report that non-continuous ligature marks were found on the dead body of the wife of the present petitioner which suggest that she had committed suicide. There is no other indication to suggest that other physical injuries are not detected on the dead body of the deceased during post-mortem examination report. Further considering the fact that the other co-accused persons are already released on bail and the petitioner has been detained behind the bar since 58 days, this Court is of considered opinion that further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of Duliajan P.S. Case No. 236/2023, if he cooperates in the investigation.

In view of the above, the above named petitioner is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Dibrugarh, subject to the conditions that:-

1. That the petitioner shall cooperate in the investigation and shall appear before the Investigating Officer as and when so required for the sake of fair completion of the investigation;
2. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

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

Send back the case diary.

JUDGE

Comparing Assistant