

GAHC010253702022



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

Case No. : AB/3668/2022

AKBAR ALI
S/O LATE AYEJ UDDIN,
VILL.- CHAISHIMANA NC,
P.O.- KADAMTOLA,
P.S.- ALOPATICHAR,
DIST.- BARPETA, ASSAM, PIN- 781308.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. J A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

20.01.2023

Heard Mr. J.A. Ahmed, learned counsel for the petitioner and Mr. B. Sarma, 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. Akbar Ali has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Kalgachia Police Station Case no. 140/2022, registered under Sections 302/201/34, Indian Penal Code [IPC].

3. As per the First Information Report [FIR], lodged by the informant on 31.07.2022, the deadbody of the informant's daughter was found in hanging condition in a kitchen room of an abandoned house, located at a distance of 30 metres from her matrimonial house. The husband of the deceased, Rafikul Islam has been arraigned as accused no. 1 [A-1] with one Mofidul Islam, the brother of Rafikul Islam as accused no. 3 [A-3] in the FIR. The petitioner's name has figured as accused no. 6 [A-6] in the FIR.

4. Mr. Sarma, learned Additional Public Prosecutor who has received the case diary, has submitted that from the materials in the case diary including the statements of Mofidul Islam [A-3] who has already been arrested, it has emerged that the deceased was killed in her matrimonial house and thereafter, her body was hanged at the place from where it was recovered. In so far as the present petitioner is concerned, he is the maternal uncle of the husband of the deceased and he used to reside separately from in-laws family of the deceased. The materials in the case diary do not *prima facie* indicate involvement of the petitioner in the alleged murder of the deceased in her matrimonial house. The investigation of the case, however, is still in progress.

5. Having regard to the allegations made in the FIR which are primarily against the husband of the deceased and in the absence of incriminating material against the petitioner in the case diary, collected during the course of investigation carried out so far connecting him to the crime case, this Court is of the considered view that custodial interrogation of the petitioner is not necessary for the purpose of carrying out further investigation of the case and his release on pre-arrest bail, at this stage of investigation, is unlikely to bring any adverse effect in the further investigation of the case, provided he extends his assistance and co-operation in the further investigation of the case.

6. Accordingly, it is provided that in the event of arrest of the petitioner viz. Akbar Ali in connection with Kalgachia Police Station Case no. 140/2022, he shall be released on bail on

furnishing a bail bond of Rs. 50,000/- with one local surety of the like amount, to the satisfaction of the arresting authority subject to the conditions that :

[i] the petitioner shall appear before the Investigating Officer [I.O.] of the case within 7 [seven] days from today and shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer; and

[iii] the petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

7. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant