

GAHC010255682023



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

Case No. : Bail Appln./4147/2023

NABAJYOTI DAS AND ANR
S/O LT. BHADRESWAR DAS
R/O MIRZAPUR MASLAGUAPAA
P.S. AZARA
DIST. KAMRUP (M), ASSAM

2: SMTI. LILA DAS
W/O LT. NAGEN DAS
R/O MIRZAPUR MASLAGUAPARA
P.S. AZARA
DIST. KAMRUP (M)
ASSAM
PH. NO. 957772646

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

29.11.2023

Heard Mr. D. Medhi, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Sri Nabajyoti Das and 2. Smti Lila Das, who were detained behind the bars since 26.10.2023 and 27.10.2023 in connection with Azara P.S. Case No. 223/2023 under Section 325/306/34 of the Indian Penal Code.

The gist of accusation against the present petitioners is that on 25.10.2023, one Sri Pankaj Baishya had lodged an FIR before the Officer-In-Charge of Azara Police Station, *inter-alia*, alleging that his brother Sri Ghanashyam Das had committed suicide and it is suspected that he committed suicide due to the mental torture perpetrated on him by his mother-in-law and brother-in-law, namely the present petitioners.

Learned counsel for the petitioner has submitted that the petitioners are not involved in any manner in the offence which has been alleged against them in the FIR.

It is submitted that infact the petitioner had matrimonial dispute with his wife, who is the sister of the petitioner No. 1 and the daughter of the petitioner No. 2 and on the date of alleged offence, the deceased after reporting at the police station went missing and later on, his dead body was found in the Brahmaputra river.

On the other hand, learned Additional Public Prosecutor has produced the

case diary of Azara P.S. Case No. 223/2023 and has submitted that from the materials available in the case diary, it appears that this is a case of suicide by drowning as suggested in the post-mortem examination report.

He also submits that the Investigating Officer has already recorded the statement of relevant witnesses under Section 161 of the Code of Criminal Procedure, 1973.

I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record including the case diary of Azara P.S. Case No. 223/2023.

Considering the progress made in the investigation as well as fact that both the petitioners are detained behind the bars since last 34 days as well as considering the nature of materials available against them in the case diary, their further custodial detention does not appear to be necessary for fair completion of the investigation of Azara P.S. Case No. 223/2023.

In view of above, both the petitioners, namely, 1. Sri Nabajyoti Das and 2. Smti Lila Das, 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 Chief Judicial Magistrate, Kamrup (M) with conditions that:-

(i) the petitioners shall appear before the Investigating Officer of Azara P.S. Case No. 223/2023 as and when required by the Investigating Officer for the sake of fair completion investigation of the case; and

(ii) the petitioners shall not directly or indirectly make any inducement threat or promise to the informant 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