

GAHC010259202022



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

Case No. : AB/3724/2022

PARAMBAL DAS
S/O LATE LOKESWAR DAS
R/O VILL- JILIKAPAA, P.O. BORKOLA
SOUKA, P.S. KLAIGAON, DIST. UDLAGURI, ASSAM, PIN-784525

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS RUKMINI BARUA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

08.02.2023

Heard Ms. Padmini Barua, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Addl.P.P. appearing for the State respondent.

2. The petitioner, namely, Parambal Das has filed an application under Section 438 Cr.P.C. with a prayer for pre-arrest bail as he is apprehending arrest

in connection with Dhula P.S. Case No. 194/2022, under Sections 120(B)/389/306 IPC.

3. The FIR unfolds that when the informant's brother, Mrinmoy Hira Das and his two friends were returning home at about 7:30 P.M., then Ankur Das and Satish Das were sitting on the roadside, having 'Bhang', and then Mrinmoy Hira Das asked the accused whether he is Abhinash, the accused Ankur Das and Satish Das assaulted Mrinmoy Hira Das.

4. Both the parties lodged the FIR's and to resolve their dispute the present petitioner along with Ankur Das and Satish Das demanded Rs. 5 lakhs. The present petitioner along with his co-accused named in the FIR also threatened Mrinmoy Hira Das with dire consequences like death and false cases etc. This prompted Mrinmoy Hira Das to commit suicide. On 28.08.2022, at about 2:45 P.M. Mrinmoy Hira Das was found hanging by a rope under a tree in the premises of Bijay Das's house.

5. It is submitted on behalf of the petitioner that the FIR reveals that the petitioner is a suspect. It is not discernible from the FIR that he is complicit.

6. The allegation in the FIR does not make out a case under Section 306 IPC.

7. The learned counsel for the petitioner has also relied on the decision of the Hon'ble Supreme Court in ***Ude Singh And Others Vs. State of Haryana*** reported in (2019) 17 SCC 301, wherein it has been held that "***In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human***

behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case."

"For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of [Section 306](#) IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The

question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased."

8. The learned Addl. P.P. has raised serious objections stating that there are cogent materials in the case diary against the petitioner. Inference could be drawn against the petitioner that he abetted the victim to commit suicide.

9. In the case of ***Ude Singh And Others*** (supra) the appeal was partly allowed in relation to appellants No. 1 and 2. The other appellants were however directed to serve the remaining part of the sentence.

10. I have considered the import of the Sections under which the petitioner is booked.

11. I have considered the role of the petitioner as alleged in the FIR.

12. I have given my anxious consideration to the submissions at the Bar.

13. Provisions of Section 438 Cr.P.C. cannot be exercised in an untrammelled manner.

14. In view of my foregoing discussions, petition with prayer for bail under Section 438 Cr.P.C. is rejected at this stage of investigation.

15. Send back the case diary.

JUDGE

Comparing Assistant