

GAHC010010632024



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

Case No. : AB/166/2024

LUNA DEKA
W/O PALLAV NEOG
R/O KAMALABARI ROAD, P.O. AND P.S. DULIAJAN, DIST. DIBRUGARH,
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P BORA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

05.03.2024

Heard Mr. P. Bora, learned senior counsel assisted by Ms. K. Bhattacharyya, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Addl. P.P, Assam.

This is an application under Section 438 of Cr.PC, 1973 for granting of pre-arrest bail to the petitioner, namely Smt. Luna Deka, who is apprehending arrest in connection with Duliajan P.S Case No. 324/2023 registered under Sections 302/34 of IPC.

The case of the prosecution is that the informant lodged an FIR on 14.12.2023 alleging that one Sh. Pallav Neog and his wife Smt. Luna Deka (petitioner herein) brought her sister, who is about 14 years old to their home for household chores. It is further alleged that she was not allowed to contact with her family and they used to scold her from behind. It is further alleged that on 13.12.2023 when she had a conversation with her over phone, she felt that she was scolded in the same manner for which they are not convinced about her death easily. Accordingly, as case has been registered against the accused and the petitioner. Apprehending arrest, the present application has been filed.

Mr. P. Bora, learned senior counsel submits that the allegation in the FIR are completely false and that the petitioner has nothing to do whatsoever in the alleged offence. He further submits that Sh. Pallav Neog, who is the husband of the petitioner has already been arrested in connection with the aforesaid case.

Mr. K.K. Das, learned Addl. P.P on the other hand strongly opposes the prayer of the anticipatory bail. He submits that the statement of the witnesses have already been recorded under Section 161 Cr.PC, from which it appears that the deceased was not allowed to talk to her family and that the petitioner and her husband used to scold her by using slang words. He further submits that the FSL report is still awaited, for which the cause of the death could not be ascertained.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears from the Case Diary that though on 16.12.2023, FSL reports was called for by the Investigating Officer, the same has not yet been furnished to the Investigating Officer. Be that as it may, it appears that the statements of the witnesses have already been recorded under Section 161 of Cr.PC. It further appears from the statement of the witnesses recorded that there are no allegations of physical torture.

In view of the above, this Court is of the considered view that custodial interrogation of the petitioner may not be necessary. Accordingly, the anticipatory bail application is allowed with the following directions.

It is provided that in the event of arrest, the petitioner named above, shall be released on pre-arrest bail in connection with the above noted case on furnishing bail bond of Rs. 30,000/- with one surety of like amount to the satisfaction of the arresting authority, subject of course to the following conditions:-

- (i) That the petitioner shall appear before the Investigating Officer within 10 days, failing which on and from the 11th day, she shall be arrested.
- (ii) That the petitioner shall not, directly or indirectly make any inducement, threat or promise to any person 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) That the petitioner shall refrain from committing any similar offences in future of which she is accused or suspected of commission.

With the above observation and direction, the anticipatory bail application stands disposed of.

Return the Case Diary on priority basis.

JUDGE

Comparing Assistant