

GAHC010022342024



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

Case No. : AB/279/2024

KOBUR ALI @ KABUR ALI
S/O LATE FAIZUDDIN SHEIKH @ FAIJUDDIN HOQUE
VILL- AMBARI PART-III (CHELABARI)
P.O. AMBARI, P.S. DHUPDHARA
DIST. GOALPARA, ASSAM
PIN-783130

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 28.02.2024

Heard Mr. R. Islam learned counsel for the petitioner and Mr. KK Parasar, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 438 Cr.P.C., filed by the petitioner, namely, Kobur Ali @ Kabur Ali, praying for pre- arrest bail who is apprehending arrest in connection with

Dhupdhara P.S. Case No. 78/2023 under Sections 341/ 302/ 34 IPC.

The case diary is received and perused. Also perused the materials available on record.

Heard both sides.

It is submitted by Mr. Islam, the learned counsel for the petitioner that the petitioner is an aged person and the co-accused persons are his sons and he is no way involved with the alleged offence. However, there is a quarrel between the sons and the informant's side and out of the said quarrel; altercation and scuffles took place regarding a disputed land. During altercation and scuffles, the deceased being the elderly persons died, but present petitioner is not involved with the alleged offence, nor was he present in the place of occurrence. He further submits that the petitioner is ready and willing to co-operate with the I.O., if the privilege of pre-arrest bail is granted to him.

In this context, Mr. Parasar, the learned Addl. PP has submitted that there is no direct implication against the preset accused/ petitioner though there was an altercation and scuffle took place between the two groups. He further submits that though the medical report is available with the case dairy but the cause of death could not be opined due to non-receipt of the FSL report. However, there is no mark of injury or other symptoms of wound mentioned in the medical report. Accordingly, he submitted that considering the materials available in the case diary, his bail prayer may be considered.

After hearing the submission of the learned counsel for both the parties and considering the materials available in the case diary, this Court is of the view that custodial interrogation may not be warranted. In view of the above, I find it to be a fit case to extend the benefit of pre-arrest bail to the petitioner. Accordingly, it is directed that in the event of arrest of the petitioner in connection with the aforementioned case, the petitioner be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

1. the petitioner shall appear before the I.O. within 7 days from today.
2. the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;

3. 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 any other police officer, and
4. the petitioner shall not hamper the investigation or temper with the evidence of the case.

With the above direction, the bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant