

GAHC010022372024



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

Case No. : AB/281/2024

RAJU @ RAJU ALI AND 4 ORS.
S/O BILAT HUSSAIN
R/O VILL- KAKILA UTAR PARA, P.S. ABHAYAPURI, DIST. BONGAIGAON,
ASSAM

2: BILAT @ BILAT HUSSAIN
S/O LATE HURMUJ ALI
R/O VILL- KAKILA UTAR PARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM

3: ROJINA KHATUN @ RAJINA
W/O TAIZ UDDIN
R/O VILL- KAKILA UTAR PARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM

4: TAJU @ TAIZ UDDIN
S/O BILAT HUSSAIN
R/O VILL- KAKILA UTAR PARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM

5: AMIR HAMJA @ AMIR HUSSAIN
S/O BILAT HUSSAIN
R/O VILL- KAKILA UTAR PARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 23.02.2024

Heard Mr. MI Hussain, learned counsel for the petitioners and Mr. KK Das, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 438 Cr.P.C., filed by the petitioners, praying for pre-arrest bail who are apprehending arrest in connection with Abhayapuri P.S. Case No. 25/2024 under Sections 120B/ 304B IPC.

Case diary is received without post mortem report.

Perused the case diary and the materials on record.

Heard both sides.

It is submitted by Mr. Hussain, the learned counsel for the petitioners that all the petitioners are the members of the same family and they are cultivators and labourers staying together. The petitioner No. 1 is the husband of the victim and he is a blind person and he is 100% disable. The medical certificate is also given by the authority concerned wherein it is seen that the petitioner No. 1 is 100% blind and disable person and there is no allegation of torture and demand of dowry to attract Sections 120B/ 304B IPC. He further submits that the deceased was mentally not sound and she tried to commit suicide due her mental disorder and other petitioners are innocent and no way involved with the alleged offence. There are no such ingredients in the FIR to attract Sections 120B/ 304B IPC. He further submits that the petitioners are ready and willing to co-operate with the I.O., if the privilege of pre-arrest bail

is granted to them.

In this context, Mr. Das, the learned Addl. PP has submitted that the post-mortem report is not received. However, case diary is available and on perusal of the case diary, it is seen from the statement of the witnesses, who are neighbourers of the petitioners and victim that no allegation of demand of dowry and physical torture are brought by the witnesses, who are being examined by the I.O under Section 161 Cr.P.C.

Considering the submissions of the learned counsel for the parties and considering the materials available in the case diary it is seen that there is no allegation of demand of dowry or physical torture on the deceased, rather, it is seen that the victim was mentally not stable at the relevant time of alleged incident. Accordingly, this Court is of the view that the benefit of pre-arrest bail may be extended to the petitioners.

Accordingly it is provided that in the event of arrest of the petitioners in connection with the aforementioned case, the petitioners be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

1. the petitioners shall appear before the I.O. within 7 days from today.
2. the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
3. the petitioners 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 petitioners shall not hamper the investigation or temper with the evidence of the case.

Return the case diary.

In terms of the above direction, the bail application is disposed of.

JUDGE

Comparing Assistant