

GAHC010050332024



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

Case No. : AB/729/2024

MONOWARA BEGUM AND ANR.
W/O ASAD UDDIN,
R/O M K CHOUDHURY ROAD,
P.O. AND PS HOJAI, ASSAM

2: ABDUL AHAD
S/O ASAD UDDIN

R/O M K CHOUDHURY ROAD

P.O. AND PS HOJAI
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K SHARMA, MRS. N DEKA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 15.10.2024

Heard Mr. A.K. Sharma, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State.

2. This application under Section 438 of Code of Civil Procedure, 1973 has been filed by the petitioners, namely, 1. Monowara Begum and 2. Abdul Ahad, who are apprehending their arrest in connection with Murajhar P.S. Case No. 11/2024 under Sections 120(B)/419/468/471 of the Indian Penal Code read with Section 14 of the Foreigners Act, 1946.

3. The petitioners have approached this Court for the 2nd time. Their earlier Anticipatory Bail Application was rejected vide order dated 26.02.2024 passed in Anticipatory Bail Application No. 342/2024 on the ground that at that stage of investigation, sufficient incriminating materials were there in the case diary.

4. Learned counsel for the petitioners has submitted that after rejection of the earlier Anticipatory Bail Application, the main accused of this case, namely, Abdul Baten Choudhury was arrested and his statement was recorded by the Investigating Officer. Learned counsel for the petitioners has also submitted that from the statement of the accused Abdul Baten Choudhury, which was recorded during investigation, it would be revealed that whether or not the present petitioners are involved in any manner in the offence alleged in this case or not. Learned counsel for the petitioners has also submitted that the petitioners have been falsely implicated in this case and they are in no manner involved in the offence alleged in the FIR. He has submitted that the main accused of this case, namely, Abdul Baten Choudhury, while he was working in Saudi Arabia got acquainted with the Bangladeshi Woman, namely, Rina Akhtar, he fell in love with the said lady and later on married her and brought her to India illegally and thereafter, he engaged some persons for making some forged documents in the name of his wife. The learned for the petitioners has also submitted that in the meanwhile, both Abdul Baten Choudhury as well as Rina Akhtar have already been granted bail.

5. On the other hand, learned Additional Public Prosecutor has submitted that the Anticipatory Bail Application of the present petitioners was earlier rejected by this Court on the ground that sufficient incriminating materials were available and no material change has been there in the said petition and therefore, the 2nd Anticipatory Bail Application is not maintainable.

6. The learned Additional Public Prosecutor has produced the case diary of Murajhar P.S. Case No. 11/2024 and has submitted that one of the co-accused, namely, Rina Akhtar has

implicated the present petitioners in the offence alleged in the FIR and hence, he has opposed the grant of bail to the present petitioners.

7. I have considered the submissions made by the learned counsel for both sides and perused the materials available in the record.

8. Though on earlier occasion, the anticipatory bail application of the present petitioners was rejected by this Court on the ground that incriminating materials were their against the present petitioners, however, at that point of time the statement of main accused Abdul Baten Choudhury was not available in the case diary and it was also not available before the Court.

9. Now, on perusal of the statement of Abdul Baten Choudhury, it appears that it is he who contacted one Abdul Basir of Nil Bagan, who made the alleged forged documents. The materials in the case diary also reveal that the said Abdul Baten Choudhury had entered into a deal for making the forged documents by paying Rs.1 lakh out of which Rs.80,000/- has already been paid by him.

10. The aforesaid revelation during investigation after recording the statement of Abdul Baten Choudhury tilt the balance in favour of the present petitioners while considering their second bail application. The fact that the main accused persons both Abdul Baten Choudhury as well as Rina Akhtar have already been granted bail also goes in favour of the present petitioners.

11. Considering the entire aspect of this case, this Court is of the considered opinion that custodial detention of the present petitioners may not be necessary if they co-operate in the investigation.

12. In view of above, the Anticipatory Bail Application is disposed of with a direction to the present petitioners to appear before the Investigating Officer of Murajhar P.S. Case No. 11/2024 within a period of 15 days from the date of this order and co-operate in the investigation. If they do so within the stipulated period of time, in the event of arrest in connection with Murajhar P.S. Case No. 11/2024, the petitioners, namely, 1. Monowara Begum and 2. Abdul Ahad shall be allowed to go on bail of Rs.30,000/- each with one surety of like amount subject to the satisfaction of the arresting authority on the following conditions

:

(i) That the petitioners shall co-operate in the investigation.

(ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

13. This Anticipatory Bail Application is accordingly disposed of.

14. Send back the case diary.

JUDGE

Comparing Assistant