

GAHC010052022024



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

Case No. : AB/650/2024

MAINUL HOQUE BARBHUIYA @ MAINUL HOQUE
S/ O ABDUL JABBAR, R/O BHANGARPAR PART V, PS BORKHOLA, DIST
CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR A MALEK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 19-04-2024

Heard Mr. A. T. Sarkar, learned counsel for the petitioner. Also heard Mr. K. K. Parashar, learned Additional Public Prosecutor appearing on behalf of the state respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail the accused/petitioner namely Mainul Hoque Barbhuiya @ Mainul Hoque who is apprehending

arrest in connection with Borkhola P.S. Case No. 47/2023 under Sections 498(A)/302/34 of the Indian Penal Code.

Case diary is received. Perused the same.

It is submitted the learned counsel for the petitioner that he is the father-in-law of the deceased and no way connected in the alleged offence. Further, he submits that due to some reason the deceased committed suicide but the present accused petitioner is no way involved in the alleged offence. However, he is ready and willing to cooperate with the I/O in further investigation of the case, if he is granted the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor submits that the post-mortem report and FSL is available in the case diary and it is seen that the death was due to asphyxia as a result of ante mortem suicidal hanging.

None of the witnesses nor the other accused persons named the present petitioner showing his involvement in the alleged offence.

Accordingly he has submitted that the anticipatory bail for the present accused/ petitioner may be considered.

After hearing the learned counsel for both sides, materials in the Case diary vis-à-vis the post-mortem report/FSL report of the deceased, I find it a fit case to extend the privilege of pre-arrest bail to the petitioner.

Accordingly, it is provided that in the event of arrest of the accused/ petitioner namely, Mainul Hoque Barbhuyan @ Mainul Hoque in connection with Borkhola P.S Case No. 47/2023 under Sections 498(A)/302/ 34 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- i) that the petitioner shall appear before the Investigating Officer of the case within a period of 10 (ten) days from today.
- ii) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S Case;and
- iii) 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.

Anticipatory Bail application stands disposed of.

JUDGE

Comparing Assistant