

GAHC010052712024



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

Case No. : AB/675/2024

SAILEN BHUYAN AND 2 ORS.
S/O LATE KARUNA KANTA BHUYAN, R/O VILL- BORPULLA, P.O.-
BARANGHATI, P.S.-KAYAN, PIN-781350, DIST- KAMRUP, ASSAM

2: SMT. KANAKLATA BHUYAN
W/O LATE KARUNA KANTA BHUYAN
R/O VILL- BORPULLA
P.O.-BARANGHATI
P.S.-KAYAN
PIN-781350
DIST- KAMRUP
ASSAM

3: SMT. MANASHI BHUYAN
D/O LATE KARUNA KANTA BHUYAN
R/O VILL- BORPULLA
P.O.-BARANGHATI
P.S.-KAYAN
PIN-781350
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR D K ROY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 10.05.2024

Heard Mr. B.K. Mahajan, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State and Mr. D. Das, learned counsel for the respondent No. 2.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioners, namely, **Sailen Bhuyan, Kanaklata Bhuyan and Manashi Bhuyan**, in connection with **Kayan P.S. Case No. 10/2024**, registered under Section **498(A)/313/34 IPC r/w Section 4 of Dowry Prohibition Act, 1961**.

Mr. Mahajan, learned counsel for the petitioner has submitted that the petitioner No. 1 is the husband, petitioner No. 2 is the mother-in-law and petitioner No. 3 is the sister-in-law of the informant. It is also submitted that on 20.11.2022, the marriage was solemnized between the petitioner No. 1 and the informant. Thereafter, the informant started demanding the petitioner No. 1 to live separately from his family. Then the petitioner No. 1 approached the learned Family Court, Kamrup(M), for a decree of divorce by filing a case being F.C. (Civil) Case No. 1436/2023.

It is further submitted that when the notice was received by the informant in connection with the said case, the instant FIR has been lodged against the petitioners. It is also submitted that he may be allowed to withdraw the present petition in respect of the petitioner No. 1 with a liberty to file afresh.

On the other hand, Mr. Goswami, learned Addl.P.P. has produced the case diary and stated that as per statement of the victim recorded under Section 164 Cr.P.C., the petitioner No. 1 is very much involved in the present case. He further submits that the prayer of the petitioners may not be considered at this stage. He also submitted that he has no objection if the learned counsel withdraws the present petition in respect of the petitioner No. 1.

Mr. D. Das, learned counsel for the respondent No. 2 also stated in the same tune that there is sufficient materials against the petitioners to be involved in the alleged offence. He has also no objection if the present petition is withdrawn in respect of the petitioner No. 1.

I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

Considering the submissions made by the learned counsel for the parties, a liberty is given to withdraw the present petition in respect of the petitioner No. 1 to file afresh.

On perusal of the case diary, it reveals that though the case was registered under Section 313 IPC, a medical report is available in the record which does not disclose anything regarding termination of pregnancy of the victim. It is also observed that the petitioner No. 2 is the 65 years old lady and the petitioner No. 3 is the married sister of the petitioner No. 1 who used to stay in separate house hold.

Considering the facts as well as the materials available thereon, this Court finds that custodial interrogation of the petitioner Nos. 2 and 3 is not required for the purpose of investigation of the case. Therefore, they are granted the

privilege of pre-arrest bail.

Accordingly, it is provided that in the event of arrest of the petitioner Nos. 2 and 3, named above, in connection with **Kayan P.S. Case No. 10/2024**, registered under Section **498(A)/313/34 IPC r/w Section 4 of Dowry Prohibition Act, 1961**, they shall be released on furnishing bail bond of **Rs.10,000/- each** with **a suitable surety each** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioners:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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;

The anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant