

GAHC010078422024



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

Case No. : AB/1066/2024

MD. RUSTOM ALI AND 2 ORS.
S/O LATE GANDA ALI @ TAJIMUDDIN
R/O NON-K, GARAPARI (PART), P.S. DHULA, SUB-DIVISON- MANGALDAI,
DIST. DARRANG, ASSAM

2: MD. JAMARUDDIN
S/O LATE GANDA ALI @ TAJIMUDDIN
R/O NON-K
GARAPARI (PART-)
P.S. DHULA
SUB-DIVISION- MANGALDAI
DIST. DARRANG
ASSAM

3: GULAPFUL NESSA @ GOLAP FULI
W/O MD. JAMARUDDIN
R/O NON-K
GARAPARI (PART)
P.S. DHULA
SUB-DIVISON- MANGALDAI
DIST. DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

21.05.2024

Heard Mr. M. A. I. Hussain, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Kharupetia P.S. Case No. 225/2023, under Section 304-B of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Hussain, learned counsel for the petitioners, that the earlier anticipatory bail prayer of the present petitioners was rejected only considering the nascent stage of investigation. However, the prayer of one of the petitioner was allowed, who is the mother-in-law of the deceased. He further submitted that the present petitioners are innocent and they are not connected with the alleged offence. The victim got married with the accused/petitioner No. 1 and they also have a child out of their wedlock, but till date there is no other case pending against the present accused/petitioners with the allegation of demand of dowry. More so, he submitted that the relative of

the victim may give a statement against the present accused/ petitioners, but there is no other allegation of demand of dowry against the present accused/petitioners to attract a case under Section 304-B of the Indian Penal Code. Rather, the accused/ petitioner No. 1 took the victim to the hospital while she was suffering from burn injuries. He further submitted that all the accused/petitioners are also ready and willing to co-operate the I.O. in the further investigation of this case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. K. K. Parasara, learned Additional Public Prosecutor, has submitted that the other witnesses have not stated anything in regards to dowry. However, all the witnesses came to the courtyard of the accused/petitioners and saw the victim lying on the ground with burn injuries. But they have not seen as to how the fire was caught. Further he submitted that as per the statement of the elder sister of the victim, all the accused/petitioners are involved in this case who used to torture her deceased sister and on the day of incident, they put kerosene over the body of the victim and burn her for which she succumbed to her burn injury. She also stated that when she came to the place of occurrence hearing the hue and cry of her younger sister, she found no family members in the courtyard of the accused/petitioners and her sister was lying on the ground with severe burn injury. Accordingly, the learned Additional Public Prosecutor submitted that there are sufficient incriminating materials in the statement of the elder sister of the victim and thus, it is not a fit case to grant the privilege of pre-arrest bail to the present accused/petitioners.

After hearing the submissions made by the learned counsels for both sides, I have also perused the case record and the statement of the witnesses, viz-a-viz the medical report. As per the Post-Mortem report, the death of the victim was caused due to shock out of antemortem burn injury over the body which is around 76%.

In view of above and also considering the statement of the witnesses, more particularly, the statement of the elder sister of the victim and other incriminating materials, I do not find it a fit case to extend the privilege of pre-arrest bail to the accused/ petitioners and accordingly, the same stands rejected.

In terms of above, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant