

GAHC010087252024



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

Case No. : AB/1138/2024

SAHIDA KHATUN
W/O AKBAR ALI
VILL- BHARALKUNDI PART-10, P.S. JOGIGHOPA, IN THE BONGAIGAON
DISTRICT OF ASSAM.

2: SALIMA KHATUN
D/O LATE SALAM BEPARI
VILL- BHARALKUNDI PART-10
P.S. JOGIGHOPA
IN THE BONGAIGAON DISTRICT OF ASSAM.

3: SAHIDUR RAHMAN
S/O LATE ANOWAR ALI
VILL- BHARALKUNDI PART-10
P.S. JOGIGHOPA
IN THE BONGAIGAON DISTRICT OF ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR A W AMAN, SAMIM RAHMAN, MR S A BARBHUYAN, MS
SURAYA RAHMAN, MR. SURAJIT DAS, MR SARFRAZ NAWAZ
Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

16.09.2024

Heard Mr S Nawaz, learned counsel for the petitioners, 1) Sahida Khatun, 2) Salima

Khatun and 3) Sahidur Rahman who have filed this application under Section 438 of the CrPC, 1973, with prayer for pre-arrest bail, as they are apprehending arrest in connection with Jogighopa PS Case No. 62/2024, under Sections 302/34 of the Indian Penal Code, 1860.

2. Also heard Mr M P Goswami, learned Additional Public Prosecutor for the State of Assam.

3. The allegation against the petitioners is that they have caused the death of the victim, Mariyam Bewa.

4. It is submitted on behalf of the petitioners that death was accidental. It is submitted that both the parties, i.e., the petitioner's side and the informant's family members were engaged in a scuffle. When Mohibul Islam and Sahidur Rahman were fighting, their mother tried to stop the fight and at that time, she fell down and sustained injuries on her head. This head injury was fatal in nature and the deceased victim succumbed to her head injuries.

5. I have considered the submissions at the Bar with circumspection.

6. I have scrutinized the Case Diary as well as the Post-Mortem Report.

7. The merits of this case are not brought to the fore as investigation is still under progress. However, it appears that bail may be granted to the petitioners. The petitioners have pledged to cooperate with the remaining part of investigation and to abide by any stringent bail conditions, if imposed upon them.

8. Investigation has also progressed to a considerable extent.

9. Considering all aspects, petition is allowed. In the event of their arrest, the petitioners shall be enlarged on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) each, with a suitable surety each of like amount to the satisfaction of the arresting authority, under the conditions that:

- i) the petitioners shall appear before the IO within one week and cooperate with the investigation,
- ii) the petitioners shall maintain the peace,
- iii) the petitioners shall not exercise threats to the witnesses, and
- iii) the petitioners shall not leave the jurisdiction of the Court, without prior permission.

9.1. On breach of any of the bail conditions, bail order shall stand automatically cancelled.

10. Anticipatory Bail Application stands disposed of.

11. Send back the Case Diary.

JUDGE

Comparing Assistant