

GAHC010088622024



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

Case No. : AB/1165/2024

IKRAMUL HAQUE @ IKRAMUL HUSSAIN AND 2 ORS.
S/O INNAS ALI,
VILL.- KASARI AMTALA,
P.S.- JURIA,
DIST.- NAGAON, ASSAM.

2: IMAMUL HAQUE @ IMAMUL HUSSAIN
S/O INNAS ALI

VILL.- KASARI AMTALA

P.S.- JURIA

DIST.- NAGAON
ASSAM.

3: IQBAL HAQUE @ IQBAL HUSSAIN
S/O INNAS ALI

VILL.- KASARI AMTALA

P.S.- JURIA

DIST.- NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR J C BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

24.05.2024

Heard Mr J C Borah, learned counsel for the petitioners, 1) Ikramul Haque @ Ikramul Hussain, 2) Imamul Haque @ Imamul Hussain and 3) Iqbal Haque @ Iqbal Hussain.

2. The petitioners have filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as they are apprehending arrest in connection with Rupahihat PS Case No. 46/2024, under Section 306 of the Indian Penal Code, 1860.

3. Heard Mr B Sarma, learned Additional Public Prosecutor for the State of Assam/respondent.

4. The petitioners have also filed an additional affidavit to bring on record the corrected typed copy of the FIR dated 13.03.2024.

5. It is submitted on behalf of petitioners that they are not the main accused in this case. The main accused are Ruhul Amin and Salma Khatun.

6. The allegations against the main accused are that the victim was caught red-handed by the accused No. 2 with the accused No. 1 and the accused No. 2 assaulted the victim, who later committed suicide.

6. It is submitted on behalf of the petitioners that the FIR itself reveals that the present petitioners who allegedly accompanied the accused No. 2, to assault the victim, are not incriminated of any offence, relating inducement to the victim to commit suicide. The petitioners are booked under Section 306 IPC. No offence under Section 306 IPC is made out.

7. There is no allegation in the FIR itself that the petitioners abetted the victim to commit suicide or intentionally instigated her to commit suicide.

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

9. I have also scrutinized the Case Diary.

10. It is true that allegations are directed basically towards the accused No. 1 and accused No. 2. There are allegations that the petitioners have also assaulted the victim. The merits of this case are not brought to the fore.

11. The Case Diary reveals that the investigation has progressed to a considerable extent.

12. It appears that custodial interrogation of the petitioners is not warranted for the progress of investigation of the case.

13. The petitioners are local residents and they have pledged to cooperate with the remaining part of investigation.

14. Considering all aspects and in view of my foregoing discussions, petition is

allowed. In the event of their arrest, the petitioners shall be enlarged on bail of Rs. 50,000/- each, with one surety each of the like amount to the satisfaction of the arresting authority, under the conditions that:-

- i) the petitioners shall appear before the IO within 7 (seven) days from today and cooperate with the investigation,
- ii) the petitioners shall not exercise threats to the witnesses; and
- iii) the petitioners shall not leave the jurisdiction of the Court, till completion of investigation.

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

15. Bail Application stands disposed of.

16. Send back the Case Diary.

JUDGE

Comparing Assistant