

GAHC010097152024



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

Case No. : AB/1274/2024

DULAN DEY @ ARPANA DEY AND ANR
W/O DIBAKAR DEY, VILL- PATIDOI VERALA, P.O. AND P.S.-MISSAMARI,
SONITPUR, ASSAM

2: BITU DEY @ DEBASHISH DEY
S/O DIBAKAR DEY
VILL- PATIDOI VERALA
P.O. AND P.S.-MISSAMARI
SONITPUR
ASSA

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A K BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 11-06-2024

Heard Mr. A.K. Bhuyan, learned counsel for the petitioners 1. Dulan Dey @ Arpana Dey and 2. Bitu Dey @ Debashish Dey.

2. The petitioners have filed this application under Section 438 of the Code of Criminal Procedure, 1973 with a prayer for pre-arrest bail as they are apprehending arrest in connection with Missamari Police Station Case No. 18/2024 under Sections 302/34 of the Indian Penal Code, 1860.

3. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State.

4. The FIR unfolds that on 27.02.2023 the dead body of the complainant's daughter was found on the septic tank of the petitioners' house. The deceased victim was working as a domestic help in the petitioners' house for the past 8 (Eight) years. She was even tortured while she was serving as a domestic help and then she had left her job, but on being induced by the petitioners, she again returned to their house and started working for them. Suddenly on 27.02.2023, at about 6:00 AM, another helper namely Babu, who works in the petitioners' house, informed about the recovery of the dead body, over phone.

5. Several marks were visible on the body and marks were drawn with a pen on the abdomen area on the dead body and on the other parts of the body of the deceased. On 22.02.2023, the owner of the petitioners' house, Dibakar Dey informed through phone that Bitu Dey had tortured the complainant's daughter on the relevant day. The informant strongly suspects that the entire family of Dibakar Dey had killed her daughter.

6. It is submitted on behalf of the petitioners that the entire family cannot be involved in killing the deceased victim. The petitioners are not even remotely connected with the death of the deceased whose body was found on the septic tank which is in the ground floor. It appears that the deceased had accidentally slipped from the first floor under the influence of alcohol as the deceased was

addicted to alcohol, and had sustained fatal injuries and this might have resulted in her death. It is averred that the son of the deceased, who is about 18 (Eighteen) years of age demanded an iPhone and as she was unable to provide her son an iPhone due to financial constraints, the deceased might have committed suicide.

7. The learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioners. Post-Mortem report reveals that several injuries were sustained by the deceased.

8. I have scrutinized the Case Diary and have perused the Post-Mortem report. The opinion of the doctor has been kept pending till receipt of chemical examination report, but the doctor has opined that the injuries detected on the deceased are ante-mortem in nature and caused by blunt force impact. Several injuries have sustained by the deceased which has been described in the Post-Mortem report.

9. Statements of several witnesses have been recorded under Section 164 of the CrPC.

10. It appears that investigation may be adversely affected if the petitioners are released on bail. Investigation is still under progress. I have considered the magnitude of the offence. The provision of Section 438 of the CrPC cannot be exercised in an untrammelled manner. At this juncture, there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioner.

11. Hence petition is rejected at this stage.

12. In the above terms, this Anticipatory Bail application stands dismissed.

13. Send back the Case Diary.

JUDGE

Comparing Assistant