

GAHC010100602024



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

Case No. : AB/1314/2024

AFCHER ALI AND ANR
S/O JAYNAL ABEDIN, KANDULIMARI, P.O.-KALATOLI, P.S.-CHAYGAON,
PIN-781136, DIST-KAMRUP (ASSAM)

2: ASMINA KHATUN
W/O AFSER ALI
KANDULIMARI
P.O.-KALATOLI
P.S.-CHAYGAON
PIN-781136
DIST-KAMRUP (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : SWATI. B. BARUAH (TG)

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 18.06.2024

Heard Ms. S. B. Baruah, learned counsel appearing for the petitioners and
Mr. D. Das, learned Additional P.P. for the State of Assam.

This is the 3rd bail application u/s 438 of the Cr.P.C. in respect of Boko P.S. Case No. 426/2023 under Sections 313/304/34 of the Indian Penal Code.

On 12.09.2023, the informant Sharif Ali had lodged an FIR against Saheb Ali and the present two petitioners. In the aforesaid FIR, it was alleged that Md. Saheb Ali, the husband of his sister, Mumtaz Begum had taken her to the pharmacy of Smti. Asmina Khatun, where she along with Afcher Ali had illegally terminated her pregnancy. It is alleged that because of the termination of the pregnancy, Mumtaz Begum died.

The learned counsel, Ms. Baruah has submitted that the deceased died because of some other ailments and not because of termination of her pregnancy.

The post mortem report available in the case diary seems to have supported this fact.

I have considered the submissions made by the learned counsel of both sides. I have also gone through the statement of Asmina Khatun recorded by the Investigating Officer u/s 161 of the Cr.P.C.

Under the aforesaid circumstances, this Court is of the opinion that the petitioners, namely, 1. Afcher Ali and 2. Asmina Khatun do not deserve to be detained in custody. Therefore, their pre-arrest bail application is allowed. The interim order granted in favour of the petitioner No. 1, Afcher Ali on 30.05.2024 is hereby made absolute. He is also directed to co-operate with the Investigating Officer as and when required.

It is further directed that in the event of arrest in connection with Boko P.S. Case No. 426/2023, the petitioner No. 2, Asmina Khatun shall be released on bail of Rs. 25,000/- with a surety of like amount to the satisfaction of the

arresting authority. She is also directed to co-operate with the Investigating Officer as and when required.

The bail application stands disposed of.

The case diary shall be returned.

JUDGE

Comparing Assistant