

GAHC010104202024



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

Case No. : AB/1355/2024

ABDUL HOQUE AND 3 ORS.
C/O TAMAJ ALI
R/O BARTARI
P.O.-CHANDMAMA
DIST- BARPETA
ASSAM
PIN-781321

2: JARIMA KHATUN
C/O MADABAR ALU
R/O NARARVITA PT-1
P.O.-NARARBHITA
DIST- BONGAIGAON
PIN-783384

3: HAJARAT ALI
C/O MAYEJ ALI
R/O BARTARI
P.O.-CHANDMAMA
DIST- BARPETA
PIN-781321

4: SHAHADOT ALI @ SHAHAJUL ISLAM
C/O ASIR UDDIN
R/O BARTARI
P.O.- CHANDMAMA
DIST- BARPETA
PIN-781321
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MS. T SOM
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

07.06.2024

Heard Ms T Som, learned counsel for the petitioners, 1) Abdul Hoque, 2) Jarima Khatun 3) Hajarat Ali and 4) Shahadot Ali @ Shahajul Islam, who have filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as they are apprehending arrest in connection with Kalgachia PS Case No. 47/2024, under Sections 302/201/34 IPC.

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

4. The prime accused, Samsul Sheikh informed the neighbours that the body of his deceased father, Bisha Sheikh was to be buried after following the customary rituals. At about 10:00 am, Ismail Hussain, who was observing the rituals noticed marks of stab wounds on the neck and throat of the deceased. Meanwhile, the main accused Samsul and his wife along with his children had already fled. The present FIR was registered and investigation commenced.

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

6. It is submitted at the Bar that the prime accused Samsul Sheikh has already been arrested in connection with this case.
7. The Inquest Report reveals only one deep cut injury on the throat of the deceased.
8. I have also scrutinized the Case Diary.
9. It is submitted by the learned Additional Public Prosecutor that the petitioner Nos. 1, 2 and 3 have been implicated of offence under Section 201 IPC, as during the customary rites, they tried to conceal the slash on the neck of the deceased.
10. The merits of the case are not brought to the fore.
11. The Case Diary reveals that investigation has progressed to a considerable extent.
12. It appears that further custodial interrogation of the present petitioners may not be required for the progress of investigation.
13. The petitioners being local residents 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 a suitable surety of the like amount to the satisfaction of the arresting authority under the conditions that-
 - i) the petitioners shall appear before the IO within 10 days and cooperate with the investigation,

ii) the petitioners shall not leave the jurisdiction of the Court, without prior permission.

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

15. Bail Application stands disposed of.

16. Send back the Case Diary.

JUDGE

Comparing Assistant