

GAHC010108522024



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

Case No. : AB/1412/2024

SMTI. JAYASHREE DEKA SARMAH @ JAYASHREE DEKA SHARMA AND
ANR
WIFE OF SRI JAYANTA SARMAH, RESIDING AT VILLAGE TANGLA, WARD
NO.4, PIN CODE- 784521, POST OFFICE TANGLA, POLICE STATION
TANGLA, DISTRICT- UDALGURI, ASSAM

2: MISS NISHIGANDHA SARMAH @ NISHIGANDHA SHARMA
DAUGHTER OF SRI JAYANTA SARMAH
RESIDING AT VILLAGE TANGLA
WARD NO.4
PIN CODE- 784521
POST OFFICE TANGLA
POLICE STATION TANGLA
DISTRICT- UDALGURI
ASSAM

SHE IS MINOR AND AS SUCH REPRESENTED BY HER MOTHER i.e.
PETITIONER NO.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP ASSAM

Advocate for the Petitioner : MR. M P CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

11.06.2024

1. Heard learned counsel Mr. M. P. Choudhury for the petitioner, Jayashree Dekha Sarmah.
2. This application has been filed by the petitioners under Section 438 of the Cr.PC with prayer for pre-arrest bail as they are apprehending arrest in connection with Dimakuchi P.S. Case No. 20/2024 under Section 306 of the IPC corresponding to GR Case No. 379/2024.
3. Heard Mr. R. R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State and learned counsel Mr. S.D Roy on behalf of Mr. A. Chamuah.
4. The FIR unfolds that on 12.05.2024 at around 11.15 p.m., the informant saw his son hanging in his room. The victim who completed his Higher Secondary from Goalpara Sainik School and returned home on 20.03.2024, committed suicide on 12.05.2024.
5. The informant raised alarm and the neighbours rushed to the informants' house and called an ambulance and the informants' son was taken to the Dimakuchi Adarsh Hospital, but was declared dead by the Doctor.
6. Initially, the informant stated before the police that his son had committed suicide, but after his last rites were performed, the informant, on going through the phone records of his son, came across several voice messages, voice recording, whatsapp messages, photo clips and conversation with his friends

which clearly revealed that her son had committed suicide due to the mental agony exercised by both the petitioners.

- 7.** An additional affidavit was also submitted on behalf of the petitioners that a false FIR has been lodged against the petitioners on 22.05.2024.
- 8.** The petitioner No. 1 filed a complaint before the Assam State Women's Commission on the same date i.e, 22.05.2024 at about 11.35 p.m. The petitioner no. 1 received a phone call from an unknown person about the unnatural death of the informants' son. She along with her daughter went to the house of the informant to find out the reasons leading to the suicide of the informants' son and the family of the informant as well as the informant have been targeting the petitioner no. 2 and have been exercising threats to both the petitioners.
- 9.** Moreover, the informant's wife had uploaded some unsubstantiated posts on social media platform (Facebook) to torture the minor petitioner and to defame her and her family.
- 10.** It is submitted that the petitioner no. 2 is a bright student and with this type of harassment through social media platform, her reputation might be tarnished.
- 11.** Further on 23.05.2024, an FIR was lodged with the P.S. at Dimakuchi with similar allegations against the Informant and his wife. It was also alleged that on 19.05.2024, at around 4 p.m., a couple arrived at the petitioners' house and threatened to kill him i.e., the petitioner no. 2.

- 12.** Again on 21.05.2024, at about 1.30 a.m., some unidentified persons came to the petitioners' house searching for petitioner no. 2 but fortunately they were not present in the house.
- 13.** A similar petition was also submitted before the Assam Human Rights Commission on 23.05.2024 and a similar FIR was lodged before the O.C. which was lodged with the Cyber Police Station at Ulubari, Guwahati on 24.05.2024.
- 14.** It is submitted that the petitioners had to file several complaints and FIRs due to the conduct of the informants' family members.
- 15.** It is further submitted on behalf of the petitioners that they are innocent and they have been made scapegoat.
- 16.** Moreover, the petitioner no. 2 does not have a phone and she used to call the informants son through her mother's phone.
- 17.** It is averred that the informants' son started developing feelings for the petitioner no. 2 and accordingly he proposed the petitioner no. 2 in the month of March, 2024 but the petitioner no. 2 rejected his proposal. Thereafter, the informants' son relentlessly tried to contact the petitioner no. 2. As the petitioner no. 2 was using petitioner no. 1's phone, petitioner no. 1 learned about the messages sent by the informants' son and the phone calls made by the informants' son (deceased).
- 18.** The petitioner no. 2 categorically informed her parents that despite the repeated calls from the informants' son, she was ignoring the phone calls but the informants' son kept on harassing and bothering her continuously with

repeated phone calls.

The petitioner no. 1 then advised her daughter to ignore the phone calls by blocking the phone number of the informants' son permanently. Pursuant thereto, the unfortunate incident occurred.

- 19.** The learned Additional Public Prosecutor has raised serious objection stating that a case under Section 306 of the IPC has been made out against the petitioner.
- 20.** The petitioner does not at all deserve anticipatory bail.
- 21.** There are call records and call data including pictures and screenshots showing how the victim was instigated to commit suicide by the petitioners.
- 22.** I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary.
- 23.** I have considered the magnitude of the offence and the role of both the petitioners.
- 24.** At this juncture, there appears to be no justified ground to extend the privilege of anticipatory bail to both the petitioners.
- 25.** Petition is hereby rejected at this stage.
- 26.** Send back the Case Diary.

JUDGE

Comparing Assistant