

GAHC010112582024



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

Case No. : AB/1483/2024

SAYED RAJUL ALI @ RAJUL ALI @ RAJU AND 3 ORS.
S/O JAMAL ALI, R/O VILL- BHOGPUR, P.S.-GORESWAR, DIST- TAMULPUR,
ASSAM

2: SAYARA BEGUM
W/O JAMAL ALI
R/O VILL- BHOGPUR
P.S.-GORESWAR
DIST- TAMULPUR
ASSAM

3: PAPU ALI
S/O JAMAL ALI
R/O VILL- BHOGPUR
P.S.-GORESWAR
DIST- TAMULPUR
ASSAM

4: SAHJUL ALI
S/O JAMAL ALI
R/O VILL- BHOGPUR
P.S.-GORESWAR
DIST- TAMULPUR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M HOQUE, MR. R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 09-08-2024

- 1.** Heard Ms. J. Begum, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Addl. PP, Assam.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, [1] Sayed Rajul Ali @ Rajul Ali @ Raju [2] Sayara Begum [3] Papu Ali and [4] Sahijul Ali who are apprehending their arrest in connection with Goreswar P.S. Case No. 30/2024 under Sections 307/34 of the Indian Penal Code.
- 3.** The gist of accusation in this case is that on 19.05.2024 one Tafijul Ali has lodged an FIR against the above named petitioners before the Officer In-charge of Goreswar police station, *inter alia*, alleging that Rajul Ali married Tarikan Bibi about 5 years ago. After that she was subjected to cruelty by the above named petitioners and it is also alleged that the petitioners assaulted her and set her on fire by using petrol and the victim woman was struggling for life when the FIR was lodged.
- 4.** Learned counsel for the petitioners has submitted that the allegations made against the above named petitioners are not true and they are innocent. It is also submitted that they are ready to co-operate in the investigation if allowed to go on bail.
- 5.** On the other hand, learned Addl. PP Mr. P. Borthakur has produced the

Case Diary of Goreswar P.S. Case No. 30/2024 and has submitted that in the meanwhile the deceased Tarikan Bibi has succumbed to his injury on 23.05.2024 and Section 302 of the Indian Penal Code has been in this case. He also submitted that before dying the victim had made a dying declaration wherein she had categorically implicated the petitioner No. 1 Sayed Rajul Ali who was her husband as well as the petitioner No. 2 Sayara Begum who was her mother-in-law.

6. I have considered the submissions made by learned counsel for both the sides and has perused the materials available on record including the Case Diary of Goreshwar P.S. Case No. 30/2024. Considering the fact in the dying declaration made by the victim girl she has categorically made implicating statement against the petitioner No. 1 and petitioner No. 2, namely, Sayed Rajul Ali and Sayara Begum. Hence, this Court is of considered opinion that both the above named petitioners are not entitled to get a favourable order under Section 438 of the Code of Criminal Procedure, 1973.

7. Therefore, the prayer for anticipatory bail is rejected.

8. However as regards the other petitioners, namely, Papu Ali and Sahijul Ali, considering the materials available on record this Court is of the opinion that their custodial detention may not be necessary for fair completion of the investigation if they co-operate in the investigation.

9. Hence, the petitioners, namely, Papu Ali and Sahijul Ali are directed to appear before the Investigating Officer of Goreswar P.S. Case No. 30/2024 within a period of 10 days from the date of this order and co-operate in the investigation. If they do so within the stipulated period of time, in the event of their arrest in connection with Goreswar P.S. Case No. 30/2024, the above

named petitioners shall be allowed to go on bail of Rs. 30,000/- each with one surety of like amount subject to satisfaction of the arresting authority with following conditions:

i. That the petitioners shall appear and cooperate in the trial pending against him before the Trial Court.

ii. That the petitioners shall not directly or indirectly make any inducement, threat, or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts before the Trial Court.

10. With the above observations, this anticipatory bail application is accordingly disposed of.

JUDGE

Comparing Assistant