

GAHC010118552024



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

Case No. : AB/1557/2024

GANESH TAMULI AND ANR
S/O LATE DHATU RAM TAMULI, R/O VILL- BAKARIGAON WARD NO. 4,
P.O., P.S. AND DIST- MORIGAON (ASSAM)

2: SABITA TAMULI
D/O LATE DHATU RAM TAMULI
W/O MUKESH CHANDA
R/O VILL- BAKARIGAON WARD NO. 4
P.O.
P.S. AND DIST- MORIGAON (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 24.06.2024

Heard Ms. R. Choudhury, learned counsel for the petitioners as well as Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

2. The petitioners, namely, Ganesh Tamuli and Sabita Tamuli, have filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as they are apprehending arrest in connection with Morigaon P.S. Case No. 135/2024, under Section 306 IPC.
3. The FIR unfolds that Rupam Kumer Sharma was being harassed by several individuals who have pressurised him to commit suicide on 17.05.2024 at his work place Naokata Mini Health Centre. It is further alleged through the FIR that the names of those persons who instigated the victim to commit suicide have been mentioned in the suicide note left behind by late Rupam Kumar Sharma. An FIR regarding this incident was lodged by Rupam Kumar Sharma's wife Smti. Aparajita Sharma.
4. It is submitted on behalf of the petitioners that the deceased Rupam Kumar Sharma used to borrow money and on being influenced by the deceased, the petitioner No. 2 paid him an amount of Rs.5,60,000/-. The deceased, however, failed to repay the amount to the petitioner No.2 despite of an agreement being executed by the petitioner No.2 with the deceased Rupam Kumar Sharma. It is also further submitted that after lending such a huge amount why will someone induce a person to commit suicide. The petitioner No.1 is a constable and he will be highly prejudiced if he is forwarded to custody.
5. The learned Additional Public Prosecutor has submitted that there are incriminating materials in the case diary against the petitioners.
6. I have considered the submissions at the bar with circumspection and I have also scrutinized the case diary and the suicide note. The merits of the case are not brought to the fore as investigation is still under progress.

7. I have considered the magnitude of the offence and the role attributable to the petitioner. I have also considered the gravity of the offence. It appears that the petitioners are not entitled to pre-arrest bail at this juncture. The provisions of Section 438 Cr.P.C. cannot be exercised in an untrammelled manner.
8. In view of my foregoing discussion, petition with prayer for pre-arrest bail stands rejected at this stage of investigation.
9. Send back the case diary.

JUDGE

Comparing Assistant