

GAHC010122312024



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

Case No. : AB/1588/2024

TINKU KURMI
S/O BIJAY KURMI, R/O NAMCHISU, P.O.-TEOK, P.S.-TEOK, DIST- JORHAT,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : S YESMIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 29.07.2024

Heard Mr. BM Deka, learned counsel for the petitioner. Also heard Mr. KK Parasar, learned Addl. Public Prosecutor, Assam, appearing on behalf of the State respondent.

This is an application under Section 438 Cr.P.C., seeking pre-arrest bail by the petitioner namely **Sri Tinku Kurmi** in connection Gelakey P.S. Case No. 14/2024 under Sections 306/ 34 IPC.

Case diary is received and perused.

Heard both sides.

It is submitted by Mr. Deka, the learned counsel for the petitioner that the petitioner innocent and he is in no way involved with the alleged offence. He further submitted that as per the version of the FIR, there is no ingredients to attract Section 306 IPC, nor it is a case of abetment of suicide. He further submits that the deceased had love affairs with the accused No. 1, namely, Sri Junmoni Kurmi. The deceased used to blackmail the accused No. 1 by opening some fake face book accounts. The present the petitioner asked the deceased, not to harass his younger sister and that apart he is not involved in the case. From the plain reading the FIR, it is seen that the allegation of abetment of suicide against the present petitioner is not attracted. Further, the learned counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court in the case of **Geo Varghese Vs. State of Rajasthan and Anr** passed in **Crl. Appeal No. 1164/2021**, wherein he emphasized paragraph 22 of the said decision, which is reproduced herein below:

“22. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegation of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

Mr. Parasar, learned Addl. PP has submitted that from the PM report it is seen that the death of the deceased is due to suicidal hanging. From the materials available in the case diary, it reveals that the accused No. 1 had relationship with the deceased and taking this

advantage, he was blackmailing the accused No. 1 and the petitioner is not directly connected with the case. He further submitted that considering the materials available in the case diary, the custodial interrogation of the present petitioner may not be required.

After considering the submissions of the learned counsel for the parties and considering materials available in the case diary, I find it to be a fit case to extend the benefit of pre-arrest bail to the petitioner.

Accordingly, it is provided that in the event of arrest of the petitioner in connection with the aforementioned case, he shall be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

1. the petitioner shall appear before the I.O. within 7 days from today from today.
2. the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
3. the petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him/her from disclosing such facts to the Court or any other police officer, and
4. the petitioner shall not hamper the investigation or temper with the evidence of the case.

The bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant