

GAHC010123992024



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

Case No. : AB/1614/2024

MRS. MAMANI PATHAK
W/O LATE KHAGEN BARMAN, R/O BHETAPARA, CHANDRA CHOUDHURY
PATH, HOUSE NO. 58, GUWAHATI, P.S.-BASISTHA, DIST-KAMRUP (M)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S H SIKDAR, MD IMRAN,MR. S HAQUE

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09-08-2024

- 1.** Heard Mr. P.K. Das, learned counsel for the petitioner. 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 petitioner, namely, Mrs. Mamani Pathak who is

apprehending arrest in connection with Geetanagar P.S. Case No. 123/2024 under Sections 120(B)/302 of the Indian Penal Code.

3. The gist of accusation in this case is that on 31.05.2024 one Chandra Kanta Barman has lodged an FIR before the Officer In-charge of Geetanagar police station, *inter alia*, alleging that on 02.05.2024 a niece of the first informant informed him over telephone that the younger brother of the first informant, namely, Khagen Barman had eaten something and has passed away. Later on he was informed by the niece that the younger brother of the informant had committed suicide by hanging himself. It is also alleged in the FIR that the wife (present petitioner) of the deceased Khagen Barman treated the deceased with cruelty and was having an extra-marital affairs with one Farid Ahmed. Therefore, the informant suspects the involvement of the said persons in the death of his brother and has alleged that the death of his brother is not a suicide but a pre-planned murder.

4. Learned counsel for the petitioner submitted that the allegations made against the petitioner in the FIR are not true and she is innocent and in no way involved in the offence alleged in the FIR.

5. On the other hand, learned Addl. PP has produced the Case Diary of Geetanagar P.S. Case No. 123/2024 and has submitted that the FSL report of the examination of viscera of deceased person shows no poison therein. It is also submitted that the post-mortem report shows that death of the deceased Khagen Barman is due to asphyxia due to hanging.

6. However, the learned Addl. PP has submitted that the witnesses whose statements are recorded u/s 161 Cr.PC have stated that there was an extra-marital relationship between the present petitioner and one Farid Ahmed and

they suspected that they may be involved in the death of the deceased person.

7. Learned Addl. PP has also submitted that there is also material in form of a recorded conversation between the deceased and one of his brother Nabin Barman which indicates that the deceased reported his brother that he was subjected to mental cruelty due to the extra-marital relationship between his wife and Farid Ahmed.

8. I have considered the submissions made by the learned counsel for both the sides and has perused the materials available on record. Considering the FSL report as well as post-mortem report of the deceased person in this case as well as from the materials available on record it appears that at this stage apart from mere suspicion, there is nothing on record which may implicate the present petitioner regarding her involvement in the offence alleged in the FIR.

9. In view of above, this Court is of the considered opinion that if the petitioner co-operates in the investigation, her custodial detention may not be necessary for fair completion of the investigation of the case.

10. For the aforesaid reasons, the petitioner, namely, Mrs. Mamani Pathak is hereby directed to appear before the Investigating Officer of Geetanagar P.S. Case No. 123/2024 within a period of 10 days from the date of order and co-operate with the investigation. If she does so within the stipulated period of time, in the event of her arrest in connection with Geetanagar P.S. Case No. 123/2024 she shall be able to go on bail of Rs. 30,000/- with one surety of like amount subject to satisfaction of the arresting authority with following conditions:-

i. That the petitioner shall appear and cooperate in the trial pending against her before the Trial Court.

ii. That the petitioner 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.

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

JUDGE

Comparing Assistant