

GAHC010129462024



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

Case No. : AB/1715/2024

SMTI. JAYASHREE DEKA SARMAH AND ANR
W/O SRI JAYANTA SARMAH, R/A VILL- TANGLA, WARD NO. 4, PIN CODE-
784521, P.O. AND P.S.-TANGLA, DIST- UDALGURI, ASSAM

2: MISS NISHIGANDHA SARMAH
D/O SRI JAYANTA SARMAH
R/A VILL- TANGLA
WARD NO. 4
PIN CODE-784521, P.O. AND P.S.-TANGLA
DIST- UDALGURI
ASSAM. SHE IS MINOR AND AS SUCH REPRESENTED BY HER MOTHER

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S SARMA, MR G GOSWAMI, MS B DEVI
Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

31.07.2024

Heard Mr S Sarma, learned counsel for the petitioner No. 1, Smti Jayashree Deka Sarmah and the petitioner No. 2-X. It is submitted that the petitioner No. 2-X has already been arrested in connection with Dimakuchi PS Case No. 20/2024 and the

learned counsel has not pressed for pre-arrest bail of petitioner No. 2-X.

2. The petitioner No. 1, Smti Jayashree Deka Sarmah has filed this application under Section 438 CrPC, with prayer for pre-arrest bail as she is apprehending arrest in connection with Dimakuchi PS Case No. 20/2024, corresponding to GR Case No. 379/2024, under Section 306 of the Indian Penal Code, 1860.

3. Heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of Assam.

4. The learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner. There are materials that the deceased committed suicide on being induced by the petitioner. Earlier, the petitioner's bail petition was rejected. The petitioner has approached this Court with a subsequent bail application on similar grounds. There are no new grounds to consider the subsequent bail application.

5. The learned Additional Public Prosecutor has submitted that the petitioner is not entitled to bail, considering the nature and gravity of the offence.

6. It is submitted on behalf of the petitioner that the petitioner is an Assistant Teacher of Kalaigaon Higher Secondary School and that she will be terminated from service and her reputation will be tarnished, if she will be forwarded to custody.

7. It is submitted that the deceased was suffering from mental ailment and this is the reason why he has committed suicide. There was no instigation on the part of the

petitioner to the deceased to commit suicide. The FIR was lodged against the petitioner with malicious intent concealing the real facts. It is submitted that the informant has failed to take care of his son's mental health and on the contrary, has falsely alleged the petitioner.

8. It is true that earlier bail application was rejected vide order dated 11.06.2024, in connection with AB No. 1412/2024, after scrutinizing the Case Diary. The subsequent petition was lodged without any exceptional ground for pre-arrest bail.

9. I have scrutinized the Case Diary.

10. Investigation is still under progress.

11. There are indeed incriminating materials in the Case Diary against the petitioner.

12. There appears to be no *prima facie* ground to grant pre-arrest bail to the petitioner.

13. The provision under Section 438 CrPC cannot be exercised in a untrammelled manner. Although a subsequent bail application was filed, no new ground has been ascribed, except the submission that investigation may have progressed.

14. The merits of this case are not brought to the fore, but it would be apt to reiterate that there is no *prima facie* ground to grant pre-arrest bail to the petitioner.

15. Hence, petition is rejected at this stage of investigation.

16. Send back the Case Diary.

JUDGE

Comparing Assistant