

GAHC010136642024



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

Case No. : AB/1781/2024

MOHIBUR ALI @ MOHIBUR RAHMAN
S/O ANSER ALI @ AMSER ALI, VILL- AMBARI BATANPARA, P.S.-
ABHAYAPURI, DIST- BONGAIGAON, ASSAM, PIN-783384

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A ROSHID, MS. T BEGUM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 10.09.2024

- 1.** Heard Mr. A. Roshid, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 482 of the BNSS, 2023 has been filed by the petitioner, namely, *Mohibur Ali @ Mohibur Rahman*, who is apprehending his arrest in connection with Abhayapuri P.S. Case No. 79/2024, under Sections

302/34 of the Indian Penal Code.

3. The gist of the accusation in this case is that on 10.03.2024, one Badar Uddin Ahmed has lodged an FIR before the Officer-in-charge of Abhayapuri Police Station, *inter alia*, alleging that his daughter, Bilkis Parbin, who was married to present petitioner about three years prior to lodging of the FIR, was subjected to torture by her in-laws for demanding of dowry. It is also alleged in the FIR that on 10.03.2024, the petitioner along with other accused person had beaten up the daughter of the first informant and killed her by strangulating her by a scarf. It is also alleged in the FIR that after killing the daughter of the first informant, the accused persons are trying to give the incident a colour of suicide.

4. The learned counsel for the petitioner has submitted that the petitioner is the husband of the deceased and was not at the place of occurrence when the incident occurred. He submits that at that time the petitioner was in Arunachal Pradesh for his livelihood. He has also submitted that in the meanwhile, the other co-accused persons have already been granted bail in AB No. 856/2024. He submits that the petitioner is ready to co-operate in the investigation and, therefore, prays for allowing the petitioner to go on anticipatory bail.

5. On the other hand, learned Additional Public Prosecutor has vehemently opposed the grant of bail to the petitioner on the ground that though the post-mortem report of the deceased shows that the death of the deceased was by hanging and which is suicidal in nature. However, he submits that the post-mortem report also mentions about some injuries on the face which were anti-mortem in nature. He also submits that at the time of the

incident, the minor daughter aged about 3 years of the petitioner as well as one another girl aged about 7 years were there inside the room where the incident had occurred. However, their statement is yet to be recorded. He also submits that the father of the petitioner in his statement before the Investigating Officer has stated that the petitioner was in the village i.e., Ambari village on that day and he went to attend village function at about 8.00 PM and the learned Additional Public Prosecutor, therefore, submits that he was not at the place of occurrence is contradicted by the statement of his own father and, therefore, suspicion arises regarding his involvement in the alleged offence and, therefore, he opposed the grant of bail to the present petitioner.

6. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record including the case diary of Abhayapuri P.S. Case No. 79/2024.

7. It appears that the incident occurred about 5 months back, however, the Investigating Officer has not yet recorded the statement of one of the vital witnesses i.e., 7 years old girl, namely, Sahida Khatun, who was present in the room where the alleged offence was committed. Though, there appears to be inconsistency in the statement of the father of the present petitioner as well as statement made by the petitioner in this bail application, however, as post-mortem report suggest that the death of the wife of the petitioner occurred due to suicidal hanging, this Court is inclined to grant anticipatory bail to the petitioner at this stage.

8. The above named petitioner is, therefore, directed to appear before the Investigating Officer of Abhayapuri P.S. Case No. 79/2024 within a period of ten days from the date of this order and co-operate in the investigation. If he

does so within the stipulated period of time, in the event of his arrest, in connection with Abhayapuri P.S. Case No. 79/2024, the above named petitioner shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount to the satisfaction of Arresting Authority with following conditions:-

- i. The petitioner shall co-operate in the trial.
- ii. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person or persons who may be acquainted with the facts of this case so as to dissuade such persons from disclosing such facts before Investigating Officer.

9. With the above observation, this anticipatory bail application is hereby disposed of.

10. Send back the case diary.

JUDGE

Comparing Assistant