

GAHC010138432024



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

Case No. : AB/1790/2024

KOSOM ALI
AGED ABOUT 58 YEARS,
SON OF LATE TOFIZUDDIN ,
RESIDENT OF VILLAGE- SADULLABARI(KALOR PAR),
P.O-KALAPANI ,
P.S- MANKACHAR ,
DISTRICT SOUTH SALMARA MANKACHAR, ASSAM, PIN-783135

2: MONOWAR HUSSAIN @ JON
SON OF KOSOM ALI

RESIDENT OF VILLAGE- SADULLABARI (KALOR PAR)

P.O-KALAPANI

P.S- MANKACHAR

DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

3: MOYFUL KHATUN
WIFE OF KOSOM ALI

RESIDENT OF VILLAGE- SADULLABARI (KALOR PAR)

P.O-KALAPANI

P.S- MANKACHAR

DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : IMRAN UDDIN CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-07-2024

Heard Mr. A. Ahmed, learned counsel for the petitioners 1. Kosom Ali, 2. Monowar Hussain @ Monowar Hussain @ Jon and 3. Moyful Khatun.

2. The petitioners have filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as they are apprehending arrest in connection with Mankachar Police Station Case No. 139/2024 under Sections 120(B)/302/34 of the Indian Penal Code, 1860 (G.R. No. 306/2024).

3. It is submitted on behalf of the petitioners that the petitioner No. 1 is the brother of the prime accused, the petitioner No. 2 is the son of the petitioner No. 1 and the petitioner No. 3 is the wife of the petitioner No. 1. It is further submitted that the petitioners reside in a different residence and they are in no way connected with the incident of murder. The deceased was the second wife of the prime accused Sahadat Ali. The petitioners of this case are from a different family and the prime accused person's family has also been named in the FIR. The allegation against the petitioners is that the second wife of

Sahadat Ali was killed by the petitioners in collusion with the other accused named in the FIR.

4. The allegation against the petitioners is that since the marriage of the deceased to the accused No. 1, the petitioners and all the family members have made several attempts to eliminate the deceased and they were successful to eliminate the deceased on 26.06.2024 at about 12.30 AM. It is further submitted on behalf of the petitioners that the petitioner Nos. 2 and 3 were at Guwahati at the time of the incident. The Annexure-3 series is submitted in support of the alibi.

5. The learned Additional Public Prosecutor has raised serious objection stating although there are no eye witnesses in this case, yet the chain of circumstances incriminates the petitioners. The learned Additional Public Prosecutor has submitted that the statement of the witnesses implicates the petitioners and the other accused named in the FIR. They have alleged that a scene of dacoity has been staged by the accused to screen themselves from the offence of homicide.

6. I have scrutinized the Case Diary. The merits of this case are not brought to the fore as this case is still under investigation. Investigation has progressed to a considerable extent. The petitioners have pledged to cooperate with the remaining part of the investigation and to abide by any stringent bail conditions if imposed upon them. The petitioners are local residents and they are not flight risks. I have also considered the submissions that eye witnesses are lacking.

7. Considering all aspects and in view of my foregoing discussions, petition is allowed.

8. In the event of their arrests, the petitioner Nos. 2. Monowar Hussain @

Monowar Hussain @ Jon and 3. Moyful Khatun shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) each with a suitable surety like amount to the satisfaction of the arresting authority under the conditions that:

(i) The petitioner Nos. 2 and 3 shall appear before the Investigating Officer within 10 (Ten) days and cooperate with the investigation.

(ii) The petitioner Nos. 2 and 3 shall not exercise threats to the witnesses.

(iii) The petitioner Nos. 2 and 3 shall not leave the jurisdiction of the Court without prior permission.

9. On breach of any of the bail conditions, bail order shall stand cancelled.

10. The interim bail granted to the petitioner No. 1 Kosom Ali vide order dated 12.07.2024 is hereby made absolute.

11. In terms of the aforesaid observations, this Anticipatory Bail application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant