

GAHC010199212023



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

Case No. : AB/3065/2023

BUDHI RAM DAS
S/O- LT. REBANATH DAS, VILL- BAMUN GAON, P.O. NO. 1 PIPAL PUKHURI,
P.S. LANKA, DIST.- HOJAI, ASSAM, PIN CODE- 782446

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.01.2024

Heard Mr. M.U. Mahmud, learned counsel for the applicant and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Lanka PS Case No. 399/2023**, under Sections 120[B]/302 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Budhi Ram Das** for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by one Md.

Shibul Hoque, on 13.08.2023. The essence of allegations made in the FIR is that his mentally ill brother namely, Hafizur Rahman was missing since 12 days and on 13.08.2023, he was informed by police that his brother was killed by some culprits on the night of 12.08.2023, by suspecting him to be involved in stealing of cows in Bamungaon, Lanka.

4. Mr. Mahmud, learned counsel for the applicant submits that the applicant is a police personnel and on the relevant date he was in his residence at Bamungaon, Lanka and on hearing halla he went to the place of occurrence and asked the culprits not to assault the victim. Mr. Mahmud further submits that this Court was pleased to grant interim protection to the applicant, vide order dated 08.09.2023, and pursuant to the said order, the applicant had appeared before the IO and he has been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 08.09.2023, absolute in the same terms and conditions.

5. On the other Mr. Sarma, learned Additional Public Prosecutor by producing the case diary before this court, submits that though the applicant had appeared before the IO and co-operating with him, the IO has collected sufficient incriminating materials against him and that the post mortem report of the deceased indicates that the cause of death of the deceased is hemorrhage and other injuries sustained in the body and therefore, it is contended to dismiss the petition and also to vacate the interim order dated 08.09.2023.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. Having regards to the submissions of learned counsel for both the

parties and also considering the fact that the applicant has been cooperating with the investigating agency as well as the progress of investigation, this Court is of the view that his custodial interrogation seems to be unwarranted in the interest of investigation, and therefore, this Court is inclined to make the interim order dated **08.09.2023**, absolute in the same terms and condition.

8. In terms of above this AB stands disposed of.

9. The case diary be returned.

JUDGE

Comparing Assistant