

GAHC010200802023



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

Case No. : AB/3128/2023

AKLIMA KHATUN @ MUSST AKLIMA KHATUN
D/O- HABIZUDDIN ,
W/O- LATE JAHIRUL ISLAM,
R/O- VILLAGE RAMPUR PAM (BORDUN),
P.S- BATADRAVA,
DIST- NAGAON, ASSAM, PIN-782122

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. J A AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

28.02.2024

Heard Mr. J. A. Ahmed, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Dhing P.S. Case No. 124/2023, under Sections 120B/328/34 of the Indian Penal Code (corresponding to G.R. Case No. 3122/2023).

The Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Ahmed, learned counsel for the petitioner, that the accused/petitioner is innocent and she has not committed any such offence as alleged in the F.I.R. After obtaining the interim pre-arrest bail on 27.09.2023, she already appeared before the I.O. and her statement is also recorded under Section 161 Cr.P.C. She is still ready and willing to cooperate with the I.O. in the further investigation of this case if her interim pre-arrest bail is made absolute.

In this context, Mr. Borthakur, learned Additional Public Prosecutor, has

submitted that while granting the interim pre-arrest bail vide order 27.09.2023, this Court has observed that as per the allegation, the present petitioner administered some vitamins to the deceased which were poisoned and the health of the son of informant was deteriorated and subsequently he died and for which the empty bottles of vitamins were sent for forensic examination and as per the FSL report, the sample gave the positive test for Herbicides. Further he submitted that from the materials available in the Case Diary, it reveals that the present accused/petitioner, along with the other co-accused, administered poison to the son of the informant and for which he died. Further it is also seen from the statement of the witnesses that the informant also took some of the tablets and for which he also fell ill, however, subsequently, he recovered. Accordingly, he submitted that there are sufficient incriminating materials against the present accused/petitioner and hence, her custodial interrogation may be required for the interest of investigation. The learned Additional Public Prosecutor, accordingly, raised objection in granting the accused/petitioner with the privilege of pre-arrest bail.

After hearing the submissions of learned counsels of both sides, I have carefully gone through the Case Diary and it is seen that there are sufficient incriminating materials available in the Case Diary against the present accused/petitioner and as per FSL report also, the vitamin medicines were Herbicides which were administered

to the deceased.

Thus, considering the incriminating materials in the Case Diary as well as the bail objection filed by the I.O., I find that custodial interrogation of the present accused/petitioner may be necessary to unearth some facts of the case and hence, I find it not a fit case to extend the privilege of pre-arrest bail to the present accused/petitioner. Accordingly, the present petition for pre-arrest bail is rejected and the interim pre-arrest bail order, granted by this Court vide order dated 27.09.2023, stands vacated.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant