

GAHC010204192023



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

Case No. : AB/3103/2023

SANDIP DAS @ SANDEEP DAS
S/O SATYENDRA CHANDRA DAS R/O HOUSE NNO. 1418 NH 37 TETELIA
NURSERY MLG RLY HQS GUWAHATI 781011 DIST. KAMRUP METRO
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

2:NAMITA BAISHYA
W/O BAPAN BAISHYA R/O VILL. BAGURIHATI P.S BELSOR DIST. NALBARI
ASSA

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 22-01-2024

1. Heard Mr. D. Bora, learned counsel for the petitioner Dr. Sandip Das @ Sandeep Das.
2. The petitioner has filed this application under Section 438 of the *Code of*

Criminal Procedure with prayer for pre-arrest bail as he is apprehending arrest in connection with *Nalbari Police Station Case No. 366/2023* under *Section 304(A)/376/34 of the Indian Penal Code read with Section 5(e) of the Protection of Children from Sexual Offences Act.*

3. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.
4. The FIR unfolds that the deceased was suffering from Lipoma on her hand and as advised by the doctor, the deceased underwent operation. During the operation, the victim/deceased passed away, but this was concealed. Finally the victim/deceased was taken to the GNRC where she was declared as dead stating that the deceased was admitted as a patient of brain death. It is alleged that the victim was administered excessive *anesthesia* which resulted in her death.
5. It is submitted on behalf of the petitioner that the co-accused Dr. Syed Zamanur Rahman @ Jamanur Rahman who also conducted the operation along with the present petitioner was granted pre-arrest bail vide order dated 17.10.2023 by a Coordinate Bench of this Court in Case No. AB/3035/2023.
6. Both the accused Dr. Sandip Das @ Sandeep Das and Dr. Syed Zamanur Rahman @ Jamanur Rahman preferred a criminal petition against the present case and the proceeding of the present case has been stayed against both the accused. Vide order dated 13.09.2023 the present petitioner was granted interim bail.
7. I have considered the submissions at the bar with circumspection. It is submitted that this is indeed an unfortunate case of medical negligence. The petitioner has appeared before the Investigating Officer and has cooperated

with the investigation. The petitioner has not violated any bail conditions. The petitioner is willing to abide by any bail conditions to be imposed upon him.

8. I have also perused the case diary.

9. Considering all aspects, the interim order dated 13.09.2023 is hereby made absolute.

10. Send back the case diary.

Anticipatory Bail Application stands disposed of in the above terms.

JUDGE

Comparing Assistant