

GAHC010206572024



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

Case No. : AB/2679/2024

ABHIJIT BORDOLOI AND 3 ORS
S/O SRI GUPESWAR BORDOLOI, R/O NO 1 BANGALBARI, P.O.-
BANGALBARI, P.S.-JAGIROAD, DIST- MORIGAON, ASSAM

2: GUPESWAR BORDOLOI
S/O LT. BHUBAN CH. BORDOLOI
R/O NO 1 BANGALBARI
P.O.-BANGALBARI
P.S.-JAGIROAD
DIST- MORIGAON
ASSAM

3: GOPAL BORDOLOI
S/O SRI SUKLESWAR BORDOLOI
R/O NO 1 BANGALBARI
P.O.-BANGALBARI
P.S.-JAGIROAD
DIST- MORIGAON
ASSAM

4: PRAFULLA PATOR
S/O LT. RATIA PATAR
R/O NO 1 BANGALBARI
P.O.-BANGALBARI
P.S.-JAGIROAD
DIST- MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. P J SAIKIA, MS D DUTTA

Advocate for the Respondent : PP, ASSAM,

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

12.11.2024

1. Heard Mr. PJ Saikia, learned counsel for the petitioners. Also heard Mr. RJ Baruah, learned Additional Public Prosecutor, Assam.
2. This is an application under Section 482 of the BNSS, 2023 for granting pre-arrest bail to the petitioner, namely, Sri Abhijit Bordoloi, Sri Gupeswar Bordoloi, Sri Gopal Bordoloi and Sri Prafulla Pator in connection with Jagiroad PS case No. 173/2024 under Section 126(2)/118(2)/109/3(5) of BNS Act.
3. In the FIR, it is alleged that the accused persons have beaten up the victim which resulted in head injury and subsequently, the victim died in hospital. The learned counsel for the petitioner submits that the petitioners are villagers and they found the victim near a drain in drunken condition with his scooty and thereafter, they sent the victim in an e-rickshaw to his residence along with the scooty. However, the person died out of the injury i.e. sustained due to fall from the scooter in drunken condition. Therefore, the petitioners are entitled for grant of pre-arrest bail under Section 482 BNSS.
4. Per contra, Mr. Baruah, learned Additional Public Prosecutor, Assam submits that the mother of the victim has specifically implicated the present

petitioners on the basis of the information given by the deceased victim. Therefore, this is not a fit case for granting pre-arrest bail to the petitioners.

5. I have heard the learned counsel for the parties. Perused the material available on record including the statements of the independent witnesses, the village headman and two of the friends of the victim and also the mother.

6. Aforesaid materials suggest that the victim was found near a drain in a drunken condition. Such material further suggests that one of the friends of the victim with the help of the villagers including the accused petitioners tried to save him and accordingly sent him to his residence. The statement of the mother further suggests that the victim was not keeping well and when his mother asked what happened to him, he responded that since he has not had his food, therefore, he is feeling ill. Thereafter, his mother fed him rice and Roti and at that point of time the deceased was asking for his scooty and he had stated before his mother that his scooter has been taken away by somebody and he was beaten up by somebody but he could not recall it. However, according to the mother the scooter was there itself in the house. This is the statement on the basis of which the learned Additional Public Prosecutor, Assam submits that there is an angle of murder in this case.

7. In the considered opinion of this court, there is material to suggest that the victim was in drunken condition and he fell down from his scooter and he was rescued by the villagers including the petitioners. It is also seen that the petitioners' statements have already been recorded, however, they have not been taken into custody by the police. Therefore, in the considered opinion of this court, custodial interrogation of the petitioners may not be necessary and

accordingly, in the totality of the matter, this court is of the opinion that the petitioners have been able to make out a case for grant of pre-arrest bail.

8. Accordingly, it is provided that in the event of arrest of the petitioners above named, in connection with the case aforementioned, they shall be released on bail on furnishing bail bond of Rs.25,000/- each with a suitable surety of the like amount, to the satisfaction of arresting authority. The pre-arrest bail is granted on the following conditions:

- I. The petitioners shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer-in-charge,
- II. The petitioners shall not hamper with the investigation, or tamper with the evidence of the case,
- III. The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer,
- IV. The petitioners shall appear before the Officer-in-charge, Jagiroad PS within 10 (ten) days from today,
- V. The petitioners shall continue to appear before the Investigating Officer of the above mentioned case after every 10(ten) days from the date of first appearance till such time the attendance is

dispensed with by the said investigating officer.

9. Bail application stands disposed of. Send back the case diary.

JUDGE

Comparing Assistant