

GAHC010213592024



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

Case No. : Bail Appln./3142/2024

SUJAN @ SUJAN BHAUMIK AND 2 ORS
S/O LT. TULSI RAM BHOWMIK, VILL- BORDALANI, P.S.-MAYONG, DIST-
MORIGAON, ASSAM

2: RANJIT @ RANJIT MALLIK
S/O GANAPATI MALLIK
VILL- BARPAK
P.S.-MAYONG
DIST- MORIGAON
ASSAM

3: KAMAL @ KAMAL MAZUMDAR
S/O LT. MON MOHAN MAZUMDAR
VILL- BORDALANI
P.S.-MAYONG
DIST- MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR R A AHMED, MR. S BISWAS, MR M AHMED, MRS R BEGUM

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 11.11.2024

- 1.** Heard Mr. R. A. Ahmed, learned counsel for the petitioners. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioners, namely, (1) Sujan @ Sujan Bhaumik, (2) Ranjit @ Ranjit Mallik and (3) Kamal @ Kamal Mazumdar who are detained behind the bars since 13.09.2024 in connection with Mayong P.S. Case No. 97/2024 under Sections 61(2)/103(2) of the BNS, 2023.
- 3.** The gist of accusation in this case is that one Saddam Hussain who is the younger brother of the deceased, namely, Sahjahan Ali, had lodged an FIR before the Officer-in-Charge of Mayong Police Station on 12.09.2024, *inter alia*, that on 14.08.2024, the elder brother of the first informant was found dead in a thatched hut near the pond of one Jaladhar Malik. It is also stated in the FIR that later on the informant came to know from the post-mortem examination report of his younger brother that he did not die a natural death but he was killed and it is suspected that the accused persons including the present petitioners are involved in the killing of the brother of the first informant. It is stated in the FIR that the accused No. 1 named in the FIR, namely, Jafor Ali had told one Jaladhar Malik not to allow people to come through his pond as otherwise he will be in danger. He also told Jaladhar Malik that the deceased Sahjahan Ali has stolen the mobile phone of Sujan i.e., the petitioner No. 1.
- 4.** The learned counsel for the petitioner has submitted that the allegations levelled against the petitioners in the FIR are not true and petitioners

are arrested only on the basis of mere suspicion.

5. It is also submitted by the learned counsel for the petitioners that on the date of incident there was a quarrel between the deceased and the accused person at Diprang Bazar regarding the stolen mobile of petitioner Sujan. However, thereafter there is no other evidence on record which suggests the involvement of present petitioners in the alleged offence.

6. The learned counsel for the petitioners has also submitted that the FIR has been lodged after a delay of one month and nothing has been mentioned in the FIR to explain the delay and apart from the suspicion there is nothing on record. It is also submitted by the learned counsel for the petitioners that the dead body of the deceased was found near the pond of Jaladhar Malik and the said place is four kilometers away from the residents of present petitioners.

7. The learned counsel for the petitioners has also submitted that the petitioners are detained behind the bars for last 60 days and considering the period of detention they may be allowed to go on bail. He also submits that the petitioners are ready to cooperate in the investigation if they are allowed to go on bail.

8. On the other hand, learned Additional Public Prosecutor has produced the case diary of Mayong P.S. Case No. 97/2024 and has submitted that on perusal of the post-mortem examination report, it appears that the death of the deceased Sahjahan Ali was not natural and ligature mark was found on his neck.

9. The learned Additional Public Prosecutor has also submitted that there was an altercation between the accused persons and the deceased on the day of alleged incident over the allegation of theft of mobile of Sujan Bhaumik by

the deceased Sahjahan Ali. He submits that though at this stage of investigation, no direct evidence could be collected, however, materials on record suggest that there is a very strong suspicion pointing towards involvement of the present petitioners in commission of the alleged offence.

10. I have considered the submissions made by learned counsel for the petitioners as well as learned Additional Public Prosecutor and have gone through the case diary of Mayong P.S. Case No. 97/2024.

11. Though from the post-mortem examination report, it appears that the deceased Sahjahan Ali died due to strangulation and ligature mark was found on his neck. However, apart from the fact that on the date of incident there was a quarrel between the deceased and the petitioners at Diprang Bazaar over theft of a mobile phone and no other materials are there at this stage which implicates the present petitioners in the alleged offence. Though, there is a strong suspicion against the present petitioners regarding their involvement in the alleged offence, however, suspicion howsoever strong may not take the place of evidence.

12. Moreover, considering the fact that the petitioners are detained behind the bars for last 60 days, this Court is of considered opinion that if the petitioners cooperate in the investigation, their custodial detention may not be necessary for fair completion of investigation of Mayong P.S. Case No. 97/2024.

13. In view of above, the above named petitioners are allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand) each with one surety of like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Morigaon with following conditions:-

- (i) That the petitioners shall co-operate in the investigation;
- (ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.
- (iii) All the above named petitioners shall appear before the Investigating Officer once in every week for next four weeks or till the investigation is completed, whichever is the earlier, and cooperate in the investigation.

14. With the above observation, this bail application is disposed of.

15. Send back the case diary.

JUDGE

Comparing Assistant