

GAHC010223452023



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

Case No. : AB/3469/2023

NURUL AMIN HAQUE AND 2 ORS
S/OLATE POSA BEPARI
R/O VILL- NO. 4 KUMOLIA
P.S. BISWANATH CHARALI
DIST. BISWANATH, ASSAM

2: AMINA KHATUN
W/O MD. NURUL AMIN HAQUE
R/O VILL- NO. 4 KUMOLIA
P.S. BISWANATH CHARALI
DIST. BISWANATH
ASSAM

3: MONUWARA KHATUN
D/O MD. NURUL AMIN HAQUE
R/O VILL- NO. 4 KUMOLIA
P.S. BISWANATH CHARALI
DIST. BISWANATH
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N N JHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

01.02.2024

Heard Mr N N Jha, learned counsel for the petitioners, 1) Md Nurul Amin Haque, 2) Amina Khatun and 3) Monuwara Khatun.

2. The petitioners have filed this application under Section 438 CrPC, with prayer for pre-arrest bail, as they are apprehending arrest in connection with PRC No. 346/2022, arising out of Biswanath Chariali PS Case No. 217/2021, corresponding to GR Case No. 474/2021, under Sections 120(B)/498(A)/494/302/34 IPC, read with Section 4 of the Dowry Prohibition Act, 1961

3. Heard Mr M P Goswami, learned Additional Public Prosecutor for the State of Assam.

4. I have considered the submissions at the Bar with circumspection.

5. It is submitted on behalf of the present petitioners that the petitioner Nos. 1, 2 and 3 are the family in-laws of the deceased/victim.

6. The allegation against the petitioners is that the victim died on 14.07.2021, as a result of hanging, as she was subjected to cruelty by the accused and his family members. The accused No. 1 went further ahead and he married for the second time and the accused and his wife, who are the prime accused, have already been granted bail.

7. The learned Additional Public Prosecutor has raised serious objection stating that

the import of the section under which the petitioners are booked does not entitle them to anticipatory bail. The prime accused have been granted regular bail and the ground of parity cannot be considered as the present petitioners are still evading appearance.

8. The petitioners are booked under a serious offence. It is submitted that although the petitioners tried to portray the incident as suicide, they were charge sheeted under Sections 120(B)/498(A)/494/302/34 IPC.

9. The petitioners are willing to cooperate with the trial.

10. It is submitted that the petitioners reside in a different household. They do not reside with the prime accused, i.e., the accused No. 1 and the accused No. 2 (named in the FIR).

11. Considering all aspects, the petitioners are directed to appear before the learned trial Court and apply for regular bail, which may be considered as per the merits of the case.

12. Bail Application stands disposed of.

JUDGE

Comparing Assistant