

GAHC010230322024



2024:GAU-AS:11882

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

Case No. : AB/2907/2024

DHIRENDRA BISWAS AND 2 ORS
S/O NAKUL BISWAS, P/R/O VILL- DINKI PATHER, P.S.-HOJAI, DIST- HOJAI
(ASSAM)

2: BIRENDRA BISWAS
S/O NAKUL BISWAS
P/R/O VILL- DINKI PATHER
P.S.-HOJAI
DIST- HOJAI (ASSAM)

3: KIRENDRA BISWAS
S/O NAKUL BISWAS
P/R/O VILL- DINKI PATHER
P.S.-HOJAI
DIST- HOJAI (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. P KHATUN, SAMIM RAHMAN, T A LASKAR

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 29-11-2024

Heard learned counsel Mr. B. Chowdhury for the petitioner Nos. 1. Dharendra Biswas, 2. Birendra Biswas and 3. Kirendra Biswas, who have filed this application under Section, who have filed this application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as they are apprehending arrest in connection with Hojai Police Station Case No. 278/2024 under Sections 103(1)/3(5) of Bharatiya Nyaya Sanhita, 2023.

2. Heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State.

3. The FIR unfolds that the informant's 13 year old son went to graze cattle. At that time, the petitioners were present as they were working in the paddy field. However, the informant's son was found to be missing and then, the informant confronted the petitioners and the petitioner No. 1 initially denied that he saw the informant's son but later he admitted and he showed where he saw the informant's son. The informant immediately took her son to the Hospital and doctors declared him dead.

4. It is further alleged that a school teacher Sri Dilip Das has stated before her that the petitioner tried to exercise pressure upon him to mention that the informant's son was suffering from Epilepsy and this was the cause of his death.

5. It is submitted on behalf of the petitioners that the petitioners cannot be connected with the death of informant's son. There appears to no justified ground why elderly people like the petitioners will have anything to do with the

death of a 13 year old boy that too when the boy was suffering from Epilepsy.

6. I have scrutinized the Case Diary as well as the medico-legal report. The opinion of the Doctor is that the death of the deceased was result of *ante mortem* drowning.

7. Considering all aspects, it appears that pre-arrest bail may be granted to the petitioners. I have also considered the age and antecedent of the petitioners. Petitioner No. 1 is 55 year old, petitioner No. 2 is 59 year old and petitioner No. 3 is 61 year old.

8. In the event of their arrests, the petitioners shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) each with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions :

(i) the petitioner shall appear before the Investigating Officer within ten days and cooperate with the investigation.

9. In terms of above observation, this Anticipatory Bail application stands disposed of.

10. Send back the Case Diary.

JUDGE

Comparing Assistant