

GAHC010253542023



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

Case No. : AB/3831/2023

AKHER MOLLAH @ AKKER ALI AND 2 ORS
S/O AKHTAR ALI MOLLAH
R/O VILL- SILGHAGRI PART-I,
P.S. AND DIST. DHUBRI, ASSAM

2: KOHINUR BEGUM @ KOHINUR BIBI
W/O SHIRAJUL HOQUE
R/O VILL- SILGHAGRI PART-I

P.S. AND DIST. DHUBRI
ASSAM

3: SHIRAJUL HOQUE MOLLAH @ SHIRAJUL HOQUE
S/O AKHTAR ALI MOLLAH
R/O VILL- SILGHAGRI PART-I

P.S. AND DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP.BY THE PP, ASSAM

Advocate for the Petitioner : MR. A RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

12.03.2024

Heard Mr. A. Rahman, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Addl. P.P, Assam.

This is an application under Section 438 of Cr.PC, 1973 for granting of pre-arrest bail to the petitioners, namely Akher Mollah @ Akker Ali, Kohinur Begum @ Kohinur Bibi and Shirajul Hoque Mollah @ Shirajul Hoque, who are apprehending arrest in connection with Dhubri P.S Case No. 384/2023 registered under Sections 143/305 of IPC.

The case of the prosecution is that on 28.09.2023, one Saidul Islam lodged an FIR alleging that the FIR named accused No. 2 had given one mobile number of his brother to the informant sister and suggested her to make love relation with his brother. It is further alleged that the person of the said mobile number asked the informant's sister to make love relation through SMS. But, the informant's sister informed that she does not love him and asked not to send any SMS to her mobile phone. On 22.09.2023, at about 11:45 AM, the accused No. 1 asked the informant's sister to go with him and took her to his house. As the informant's sister denied making love relation with the said boy, the accused have assaulted her by detaining inside the house. Upon getting such information, the informant's family members went to the house of the accused and recovered her sister. After about half an hour of taking her at the house, the informant's sister committed suicide with a bamboo through dupatta inside the cowshed. On being seen, family members recovered her in death condition.

Accordingly, a case was registered.

Mr. A. Rahman, learned counsel submits that the name of the brother of the accused No. 2 has not been mentioned in the FIR.

Mr. P. Borthakur, learned Addl. P.P on the other hand strongly opposes the prayer of the anticipatory bail. He submits that there are materials available in the Case Diary showing that the present accused alongwith the other co-accused person have forcefully taken the victim girl to the house and had assaulted her. He further submits that the PM report has been received. However, as per the said PM report, the cause of death could not be ascertained. He further submits that the FSL report indicates absence of spermatozoa.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears from the materials available that the petitioners have no criminal antecedents. It further appears that the petitioners were the family members of the boy with which the deceased had a love relation.

Considering the entire aspect of the matter and that the petitioners are willing and ready to co-operate with the investigation, this Court is of the considered view that custodial interrogation of the petitioners may not be justified for the on-going investigation.

Accordingly, it is provided that in the event of arrest, the petitioners named above, shall be released on pre-arrest bail in connection with the above

noted case on furnishing bail bond of Rs. 30,000/- each with one surety of like amount to the satisfaction of the arresting authority, subject of course to the following conditions:-

- (i) That the petitioners shall appear before the Investigating Officer within 7 days, failing which on and from the 8th day, they shall be arrested.
- (ii) That 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 them from disclosing such facts to the Court or to any Police Officer; and
- (iii) That the petitioner shall refrain from committing any similar offences in future of which they is accused or suspected of commission.

With the above observation and direction, the anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant