

GAHC010257942023



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

Case No. : AB/3879/2023

BHIMBAR DEKA
SON OF LATE PADMESWAR DEKA, RESIDENT OF VILLAGE- CHATABORI,
P.O. BORKULOI, P.S. JAGIROAD, DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR BHARGAV DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 21.02.2024

Heard Mr. A. Baruah, learned counsel for the petitioner and Mr. BB Gogoi, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 438 Cr.P.C., filed by the petitioner, namely Sri Bhimbar Deka, praying for pre- arrest bail who is apprehending arrest in connection with Jagiroad P.S. Case No. 298/2023 (Corresponding to G.R. Case No. 1715/2023) under Sections 120B/ 302/34 IPC.

It is submitted by the learned counsel for the petitioner that the petitioner is innocent and he is no way involved with the alleged offence. From the statement made in the FIR, it reflects that there is no direct allegation against the accused/ petitioner. However, as the name of the petitioner is reflected in the FIR, there is apprehension of arrest in connection with the aforesaid case. Hence, the present bail application has been filed by the petitioner seeking pre-arrest bail in connection with the case. He further submits that the prime accused and the other co-accused were enlarged on bail. Considering the ground of parity, the prayer for anticipatory bail may be considered. He further submits that the petitioner is ready and willing to co-operate with the I.O., if the privilege of pre-arrest bail is granted to him.

In this context, the learned Addl. PP has submitted that though there are no eye witnesses of the allegation, but the medical report reflects that the cause of death of the deceased is Asphyxia due to wet drowning and there is suspicion against the accused petitioner and others.

Considering the submission of the learned counsel for the parties and the materials available in the case diary, it seems that there is strong suspicion against the accused/ petitioner. However, there is no direct evidence showing the direct involvement of the accused/ petitioner.

In view of the above and considering all aspect of the case, I find it to be a fit case to extend the pre-arrest bail to the petitioner

Accordingly it is provided that in the event of arrest in connection with the aforementioned case, the petitioner be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- with a suitable surety of like amount to the satisfaction of the arresting authority subject to the following conditions that:-

1. the petitioner shall appear before the I.O. within 7 days from today.
2. the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
3. the petitioner 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 any other police officer, and

4. the petitioner shall not hamper the investigation or temper with the evidence of the case.

With the above direction, the bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant