

GAHC010259972024



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

Case No. : Bail Appln./3736/2024

SMTI FATEMA KHATUN AND ANR
W/O RAFIQU ALI @ ROFIQU ALI
D/O MD. KESHMAT ALI @ KESHMAT ALI
R/O VILL- LATIA, TOKRABANDHA, P.O. TILAPARA, P.S. CHAPAR,
DIST. DHUBRI, ASSAM, PIN-783348

2: SRI HARMUJ ALI @ MD HORMUZ ALI @ HORMUS ALI

S/O MD. KESHMAT ALI @ KESHMAT ALI
R/O VILL- JHELTURCHAR PART-I
P.O. HATIPOTA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

PIN-78334

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A A R KARIM, MR M HOQUE,MS G.PURI,Ms. R. R. BORAH

Advocate for the Respondent : PP, ASSAM,

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

ORDER

Date : 09.12.2024

1. Heard Mr. A. A. R. Karim, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.

2. This application under Section 483 of the BNSS, 2023 has been filed by the petitioners, namely, *1. Smti Fatema Khatun and 2. Sri Harmuj Ali @ Md. Hormuz Ali @ Hormus Ali* who are detained behind the bars since 16.11.2024 (for last 32 days in connection with Bharalumukh P.S. Case No. 188/2024).

3. The gist of accusation in this case is that one Ashiya Khatun, on 17.10.2024 had lodged an FIR before the Officer-in-charge of Bharalumukh Police Station naming two accused therein, namely, Abdullah Ali and Rofikul Islam stating that the daughter of the first informant, namely, Romena Khatun was missing from her rented room at Shantipur Hill Side under the Bharalumukh Police Station and it is stated in the FIR that the first informant suspects the accused named in the FIR of kidnapping her daughter. On receipt of the said FIR, Bharalumukh P.S. Case No. 188/2024 under Section 61(2)/140(3) was registered.

4. The learned Additional Public Prosecutor has produced the case diary of Bharalumukh P.S. Case No. 188/2024 has submitted that in the meanwhile, the dead body the said Romena Khatun has been recovered and Section 103(1) of the BNS, 2023 has been added.

5. The learned counsel for the petitioners has submitted that the

petitioners are not involved in the offence alleged in the FIR. He also submits that the petitioner No. 1, who was the first wife of the FIR named accused Rofikul Islam and she was disserved by the said accused ten years ago. He submits that considering the period of detention undergone, further custodial detention of the petitioners may not be necessary.

6. On the other hand, learned Additional Public Prosecutor has produced the case diary of Bharalumukh P.S. Case No. 188/2024 and has vehemently opposed the prayer of grant of bail to the petitioner No. 2, namely, Sri Harmuj Ali @ Md. Hormuz Ali @ Hormus Ali. He also submits that it is from the information obtained from the petitioner No. 2 that the dead body of the deceased could be recovered. He submits that there are sufficient incriminating materials against Sri Harmuj Ali @ Md. Hormuz Ali @ Hormus Ali in the case diary and the investigation is still going on and release of the accused Sri Harmuj Ali @ Md. Hormuz Ali @ Hormus Ali would hamper the investigation. He also fairly submits that at this stage there are not much materials against her.

7. I have considered the submissions made by the learned counsel for both the sides and perused the materials available in the case diary.

8. On perusal of the case diary, it appears that there are sufficient materials against the petitioner No. 2, Sri Harmuj Ali @ Md. Hormuz Ali @ Hormus Ali which do not justify releasing him on bail at this stage of the investigation as doing so may hamper the investigation at this stage. Hence, the prayer of petitioner No. 2, namely, Sri Harmuj Ali @ Md. Hormuz Ali @ Hormus Ali is rejected.

9. On the other hand, at this stage, this Court is of considered opinion

that there are not much incriminating materials against the petitioner No. 1, namely, Smti Fatema Khatun justifying her further detention in this case, if she cooperates with the Investigating Officer.

10. In view of above, the petitioner No. 1, namely, Smti Fatema Khatun is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of learned Chief Judicial Magistrate, Kamrup(M), with following conditions:-

- (i) That the petitioner No. 1 shall co-operate in the investigation;
- (ii) That the petitioner No. 1 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.

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

12. Send back the case diary.

JUDGE

Comparing Assistant