

GAHC010289022023



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

Case No. : Bail Appln./4661/2023

PRANJIT KHANIKAR AND 2 ORS
S/O LATE BIREN KHANIKAR
R/O VILL- MARIAN SUKAFI NAGAR,
P.O. AND P.S. MARIANI
DIST. JORHAT, ASSAM

2: SMTI PARUL SAIKIA
S/O LATE BABUL SAIKIA
R/O VILL-MARIANI SUKAFI NAGAR

P.O. AND P.S. MARIANI
DIST. JORHAT
ASSAM

3: SRI DIPAK SAIKIA
S/O LATE BABUL SAIKIA
R/O VILL-MARIANI SUKAFI NAGAR

P.O. AND P.S. MARIANI
DIST. JORHAT
ASSA

VERSUS

THE STATE OF ASSAM
REP. HEREIN BY ITS PP, ASSAM

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 26.02.2024

Heard Mr. S. Borthakur, learned counsel for the petitioners and Mr. KK Das, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 439 Cr.P.C. filed by the petitioners, seeking bail in connection with Mariani PS Case No. 83/2023 under Sections 120/ 302/ 34 IPC.

Scanned copy of the LCR is received and perused.

Heard both side.

It is submitted by Mr. Borthakur, learned counsel for the petitioners that the petitioners are innocent. They are no way involved with the alleged offence. He further submits that the petitioners were arrested on 15.08.2023 and the trial is going on. Out of 14 witnesses, 4 witnesses have already been examined. There was no material against the accused/ petitioners and they are the local resident of the area and there is no chance of absconding or tempering of the evidence of the case. He has also enclosed some statements of the witnesses recorded under Section 161 of the CrPC and the evidence of two witnesses namely PW 1 and PW 2. At present another 4 numbers of witnesses are already examined. They are ready and willing to cooperate with the trial. Considering the length of detention, their prayer for bail may be considered.

In this context, Mr. Das, learned Addl. PP has submitted that from the order passed by the learned court below, it is seen as per post mortem report that the death was homicidal in nature and the deceased died due to head injury caused by blunt force impact. As per statement of some of the witnesses, accused used to beat the deceased and hence, probability of absconding or tempering with the evidence of the case cannot be denied. Therefore, he submits that it is not a fit case to enlarge the petitioners on bail and raised objection for granting bail to them.

After hearing the learned counsel for both the parties and after perusing the records as well the statement of the witnesses, it is seen that out of 14 witnesses, only 4 witnesses have

been examined and other witnesses are yet to be examined by the trial court, who are neighbourers of the accused and thus, the probability of tempering of the evidence of the case cannot out rightly be rejected, so only considering the period of detention, I do not find it to be a fit case to consider the prayer of bail to the petitioners at this stage.

Hence, the prayer for bail strands rejected.

The bail application stands dismissed.

JUDGE

Comparing Assistant