

GAHC010153402020



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

Case No. : AB/3061/2020

ABDULLA HOQUE ALI @ ABDULLA HOQUE AND ANR
S/O KURBAN ALI @ KURPAN ALI, VILL-KALAHIKASH, P.S.-BOKO, DIST-
KAMRUP, ASSAM

2: KURBAN ALI @ KURPAN ALI
S/O LATE ADARSH ALI
VILL-KALAHIKASH
P.S.-BOKO
DIST-KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

26.02.2021

Heard Mr. N. Uddin, learned counsel for the petitioners and Mr. N.J. Dutta, learned Addl. PP for the State/respondent.

By this application under Section 438 Cr.P.C., the petitioners, namely **1. *Abdulla Hoque Ali @ Abdulla Hoque***

and 2. Kurban Ali @ Kurpan Ali have prayed for pre-arrest bail apprehending arrest in connection with **Boko P.S. Case No. 556/2020** under Sections 306/34 of the IPC.

The case diary, as called for, is placed before the Court.

It may be mentioned that by order, dated 05.11.2020, the privilege of interim pre-arrest bail was granted to the petitioner No. 2.

Mr. N. Uddin, learned counsel for the petitioners, submits that the petitioners are innocent and that the entire incident occurred as a result of the love relation between the petitioner No. 1 and the informant's deceased daughter.

Mr. N.J. Dutta, learned Addl. PP, submits that the post-mortem report of the deceased, aged about 17 years, shows that her cause of death was asphyxia as a result of ante-mortem hanging which was suicidal in nature. Mr. Dutta further submits that the case diary reveals that the petitioner No. 1 promising to marry the informant's daughter, established relationship, but latter on refused to marry her and consistently threatened that he would marry another girl.

The FIR, dated 26.05.2020, lodged by one Barek Ali, the father of the deceased, reveals *inter-alia* that the petitioner No. 1 had been maintaining physical relation with his daughter/ deceased girl since about 3 years. Even after the informant informed the matter to the petitioner No. 2/ father of the petitioner No. 1 and prevented his daughter and the petitioner No. 1 from doing the same, the petitioner No. 1 secretly continued illicit relationship with his daughter. It is alleged that on 25.05.2020, the petitioner No. 1 threatened his daughter near Kalahikash Primary School. Thereafter, on 26.05.2020 at about 8.00 AM when the informant entered into his daughter's room he found that his daughter committed suicide by hanging.

Having considered the above conduct of the petitioner No. 1 with the victim-minor girl (deceased) as stated above in short, this Court is of the opinion that it is not a fit case to grant the privilege of pre-arrest bail to him and accordingly, his pre-arrest bail prayer stands **rejected**.

With regard to the petitioner No. 2, who is aged about 71 years and father of the petitioner No. 1, it is noticed that he is co-operating in investigation and as such, the interim pre-arrest bail granted to him is hereby made absolute, subject to the following conditions:

1. That the petitioner No. 2 shall co-operate in investigation as and when required; and
2. That the petitioner No. 2 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 either to the Court or to any police officer.

Return the case diary.

This disposes off the pre-arrest bail application.

JUDGE

Comparing Assistant