

Misc.(Crl.) Case No.1211/2022

07-11-2022:-

Petitioner is represented by his learned advocate.

Seen the bail petition u/s 439 Cr.P.C., filed by petitioner Shofiuddin Bepari, supported by an affidavit, praying for granting bail to the accused persons, namely, 1) Mahar Ali and 2) Sahar Ali, who have been arrested, in connection with Tamarhat P.S. Case No.53/2022, (corresponding to G.R. No.1623/2022), u/s 306/34 of IPC.

Case diary, as called for, is received.

The prosecution case, *inter alia*, in brief, is that on 03.10.2022, the informant, Arshad Ali, lodged an ejahar in Tamarhat P.S. alleging that his sister Nazima Bibi was married to the accused Mahar Ali (A-1) about 15 years back and after marriage, she was subjected to torture by her husband and his family members. On 29.09.2022, Nazima Bibi went to the house of Ambia Bibi for attending in a Muktab Class, wherein, the accused Ambia Bibi and two other women assaulted Nazima and after returning back to her house, she reported the matter to her husband and his family members, but her husband and other family members instead of taking action, rebuked her saying that she had to be murdered, for which, out of emotion, on

30.09.2022, Nazima Bibi committed suicide by hanging herself in her kitchen.

Heard learned advocates of both sides.

Learned advocate for the accused persons submits that the accused persons are innocent and in no way involved in the commission of the alleged offence. Learned advocate also submits that the accused persons were arrested on 06.10.2022 and since then they have been detaining in jail hajot.

On the other hand, learned P.P. going through the case diary submits that the bail petition may be considered on the basis of materials available in case diary.

I have perused the case record and the case diary, carefully.

Upon perusal of the case diary, it is seen that the I.O. has recorded the statements of 8 (eight) numbers of witnesses including the informant (brother of the deceased) u/s 161 of CrPC. The main allegation of the informant, who lodged the ejahar after three days of the incident, is that on 29.09.2022, there was a quarrel between his deceased sister and the co-accused persons, namely, Ambiya Bibi, Asiron Khatun and Shahanaz Bibi, when they were assembled in the house of accused Ambiya Bibi to attend in a Muktab Class, and after returning, her deceased sister informed her

husband and family members about the said incident, but they did not respond her, rather, told her that she should be killed. On the other hand, the other witnesses examined by the I.O. simply stated that sometimes quarrel occurred between the deceased and her husband Mahar Ali, but they do not know the cause of their quarrel. There is no specific allegation to rope the accused persons in the commission of the alleged offence.

So, considering all these aspects together with considering the progress of investigation and the materials, so far, collected by the I.O., the accused persons, mentioned above, [(who have been arrested on 06.10.2022 (as per arrest memo))] are allowed to go on bail of Rs.30,000/- (Rupees thirty thousand) each with one suitable surety of the like amount to the satisfaction of learned Elaka Magistrate, Dhubri, i/d as before, on the following conditions:-

- a) The accused persons shall not leave the jurisdiction of the concerned police station without prior permission from the O/C concerned P.S.
- b) The accused persons shall co-operate with the I.O., if they are required for the purpose of investigation.
- c) The accused persons 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 any police officer.

The Misc.(Crl.) case is disposed of accordingly.

Send back the case diary along with a copy of this order to the Investigating Officer of this case.

Send a copy of this order to the learned Elaka Magistrate, Dhubri for information and necessary action.

D.A. to take step urgently.

Sessions Judge, Dhubri