

Crl. Misc. (B) Case No. 240/2022

07.07.2022

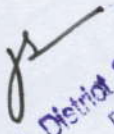
Case is fixed today for order.

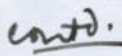
This case has arisen from bail application filed u/s 438 CrPC by the accused/petitioner Duleswar Gowala praying to grant him pre-arrest bail in connection with Barbaruah P.S. Case No. 59/2022 (G.R. No. 883/2022), u/s 306 of IPC.

Case diary of Barbaruah P.S. Case No. 59/2022 has already been received along with bail objection of the I/O.

The allegation in the FIR dated 17.06.2022 of one Sri Kiran Bhumij is that on 15.06.2022, at about 01:00 PM, the dead body of the complainant's sister Aroti Bhumij was recovered by the police at a pond of No. 2 Mohmari Ringajan. It is further alleged that they have recovered one suicide note about love affair between her sister Aroti Bhumij and Sri Duleswar Gowala of their same locality and regarding cheating by the said Sri Duleswar Gowala and handed over the suicide note to the police. It is alleged that Sri Duleswar Gowala was involved in the incident.

It is submitted on behalf of the accused/petitioner Duleswar Gowala that actually the accused/petitioner was known to the deceased Aroti Bhumij and they had a good friendship but they never had any love affair and the accused/petitioner never committed to the deceased to


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marry her and live a conjugal life with her. It is submitted that the death is unfortunate but the accused/petitioner has been falsely implicated in the case. It is submitted that the right to choose a life-partner is a pure own choice and nobody can compel any person to choose him or her as life-partner. It is contended that the alleged suicide note is false and fabricated. It is further submitted that neither the deceased nor her family member had ever approached or offered any proposal of marriage with the accused/petitioner and if the deceased had any desire to marry the accused/petitioner and if he had refused, then also she has no right to commit suicide and implicate the accused/petitioner. It is submitted that the allegations brought by the complainant against the accused/petitioner are false, fabricated, baseless and beyond the imagination of a person.

In the case diary, there is a copy of the suicide note allegedly of the deceased Aroti Bhumij. The suicide note mentions that the deceased chose to end her life because she had been loving the accused/petitioner for such long time but the accused/petitioner is going to marry another girl after spoiling her (deceased's) life. Relying on a decision of the Hon'ble High Court of Orissa in the case of *Safi @ Somanath Sahu Vs. State of Odisha*, BLAPL No. 3623 of 2021, learned


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contd.

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Advocate for the accused/petitioner has submitted that, at the first place, there was no love-affair between the accused/petitioner and the deceased; and even if it is assumed that the deceased desired to marry the accused/petitioner, it is the exclusive choice of the accused/petitioner alone whom he will marry, for the right to choose a life-partner is one's pure own choice, and, therefore, the accused/petitioner cannot be held at all responsible for the suicide committed by the deceased. I have gone through the above decision relied on by the learned Advocate for the accused/petitioner and I respectfully agree to what has been held therein. The basic ingredients of Section 306 of IPC are suicidal death and abetment thereof. In the instant case, what, exactly, were the acts or omissions of the accused/petitioner which allegedly spoiled the life of the deceased, as mentioned in the suicide note, and whether those acts or omissions of the accused/petitioner would constitute abetment of the suicide of the deceased, are matters to be investigated into and unearthed during the investigation. The statements of the witnesses examined so far prima facie suggest a love relationship between the accused/petitioner and the deceased, unlike what is negated by the accused/petitioner. It is for the investigating agency to unearth as to what degree of intimacy and affinity the accused/petitioner and the deceased shared and what exactly


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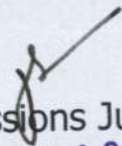
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had happened between them that eventually led to the deceased's choosing the path of death. It is important to bear in mind that in the suicide note it is specifically stated that the accused/petitioner "spoiled the life of the deceased and is going to marry another girl" ("mur life beya kori beleg suwalik biya paatibo loise"). Therefore, it is for the investigating agency to bring to light as to how the accused/petitioner spoiled the life of the deceased and as to whether the accused/petitioner, by his acts or omission, created such circumstances that the deceased was left with no option except to commit suicide.

Considering all the aspects in entirety, I am not inclined to grant pre-arrest bail to the accused/petitioner and, accordingly, the prayer of pre-arrest bail stands rejected.

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

This Crl. Misc. (B) Case is accordingly disposed of.


Addl. Sessions Judge,
Addl. District & Sessions Judge
Dibrugarh