

Present:

Shri S. K. Kabra
Addl. Sessions Judge (FTC)
Dibrugarh

Criminal Misc. (B) Case No. 714/2021

Order
13.12.2021

The argument on the present bail application was advanced by the Ld. Counsel for the accused/petitioner and by the Ld. Addl. PP on 10.12.2021. Today the matter is fixed for orders.

This is a petition u/s 439 of CrPC for granting bail to accused Shri Kalpajit Gogoi, who is in jail custody since 29.10.2021, in connection with Tingkhong P.S. Case No. 268/2021 registered u/s 120B/302/498A of IPC.

Called for Case Diary is received. Along with case diary, charge sheet and post mortem report are also sent by the I.O. I have perused the same. I have also heard both the parties.

During hearing, Ld. Counsel for the petitioner/accused submitted that accused is innocent. It is also submitted that accused person is falsely implicated on the ground of suspicion and he is made scapegoat due to misunderstanding and grudges between two families. It is also submitted that accused person shall abide by any condition imposed upon him if bail is granted.

On the other hand, learned Addl. PP has opposed the bail petition.

I have considered the submissions of both sides.

The ejahar reveals that on 28.10.2021, the complainant Shri Nityananda Baruah lodged the ejahar stating that about nine months back his daughter Smt. Archana Baruah Gogoi got married with the accused. It is also in the ejahar that the victim girl had informed the complainant that since after marriage her husband tortured her both

physically and mentally. It is also stated that on the day of incident at around 6:30 PM the wife of the complainant had called the victim and heard some hue and cry happening with her daughter. And the same day, at around 8:30 PM the mother-in-law of the victim informed the complainant over phone that the victim had drowned in the pond and she has been taken to the hospital. Immediately the complainant reached the hospital and found their daughter dead.

It appears from the record that I.O. has examined many witnesses. The complainant in addition to what is stated in the ejahar also stated before the I.O. that on 18.10.2021 the victim (his daughter) gave birth to a female baby child but the victim could not breast-feed the child due to lack of milk and thus child was not getting milk. The accused had also given similar statement to the I.O. Accused had also stated that on the day of the incident the child was crying as victim was not able to breast-feed the child. Thereafter at around 6:30 PM the victim handed over the child to the accused and went to toilet; however when the victim did not return for a long time, the accused searched her all around and finally found her drowned in the pond. And he pulled her out of the pond. A neighbor of the accused had also stated in similar line that accused had pulled out the victim from the pond. Other witnesses examined by I.O. like mother of the victim and aunt of the victim, etc. have alleged that the accused had been harassing and torturing the victim for dowry. Post-mortem report show that the victim has died due to Asphyxia following ante-mortem drowning. Post-mortem report does not show any injury mark on the body of the victim.

I.O. has submitted charge sheet u/s 304B of IPC.

Considering the entire facts and circumstances, including material collected by the investigative agency and the fact that the investigation is complete and charge sheet is ready, I am of the view

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that custodial trial may not be required in the present case. Accordingly, **the prayer for bail is allowed.**

Accused **Shri Kalpajit Gogois allowed to go on bail** on furnishing a bond of Rs. 20,000/- with **two sureties** of like amount to the satisfaction of the concerned Ld. Elaka Magistrate with further conditions that :-

- a) Accused shall co-operate with the investigative agency and also appear before the Court as and when called for;
- b) Accused shall not commit any similar offence;
- c) Accused shall not try to influence the prosecution witness;
- d) Accused shall not tamper with the evidence.

Send back the Case Diary, charge sheet and post-mortem report with a copy of this order to the Tingkhong Police Station for filing the same before the competent Court.

Accordingly, the bail Petition is disposed of.


Addl. Sessions Judge (F.T.C.)
Dibrugarh

*C/D Refused
787/24
13/12/24*
*Copy to GJM furnished
786/24
13/12/24*