

GAHC010051802023



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

Case No. : I.A.(Crl.)/184/2023

MD. SAIBAR RAHMAN
S/O LATE ALAUDDIN AHMED,
R/O HOUSE NO. 5, MEHERBAN PATH,
GUWAHATI-38, P.S. HATIGAON
DIST. KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM,
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR Z KAMAR

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./3384/2021

MD. SAIBAR RAHMAN
S/O LATE ALAUDDIN AHMED
R/O HOUSE NO. 5
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GUWAHATI-38
P.S. HATIGAON
DIST. KAMRUP (M)
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR Z KAMAR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

03.04.2023

Heard Mr. Z. Kamar, learned Sr. Counsel appearing for the applicant accused. Also heard Mr. M. Phukan, learned Public Prosecutor, Assam appearing for the State respondent.

2. By this interlocutory application under Section 439(1)(b) read with Section 482 of the Cr.P.C., the applicant has prayed for modification/waive of the condition Nos. (a), (b) and (e) incorporated in Paragraph No. 23 of the bail order, dated 23.06.2022, passed in Bail Appln. No. 3384/2021.

3. The conditions contained in the order, dated 23.06.2022, passed in Bail Appln. No. 3384/2021 are extracted hereinbelow-

“The direction for bail is further subject to the conditions that the accused-petitioner:

“(a) shall not leave the territorial jurisdiction of the learned Special Judge, Assam, without prior written permission from him;

(b) shall inform the learned Special Judge, Assam as and when he leaves Guwahati and particulars of the places that he may visit.

(c) shall not tamper with the evidence of the case;

(d) 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 to the Court or to any police officer; and

(e) shall deposit his passport/visa, etc, if any, in the learned court below.”

4. It is a case related to Gaonburah recruitment scam and corruption of several crores of rupees in South Salmara district of Assam by way of gratification.

5. Mr. Z. Kamar, learned Sr. Counsel appearing for the applicant accused, submits that pursuant to the order, dated 23.06.2022, passed in Bail Appln. No. 3384/2021, the applicant accused submitted his passport before the Court of learned Special Judge, Assam, Guwahati and he has been regularly appearing before the learned Trial Court without any default. Mr. Kamar submits that the applicant accused is willing to go on pilgrimage to Saudi Arabia to perform *Umrah Hajj* along with his family members in the last part of March, 2023 and first part of April, 2023 for which, he needs his Passport to book his air tickets and apply for VISA. Mr. Kamar, learned Sr. Counsel, also submits that as the applicant's son is studying MBBS in Moscow, Russia and the applicant being a high diabetic and heart patient, he needs to visit Russia and outside the State very frequently to meet his son as well as for his medical treatments. Apart from this, Mr. Kamar submits, the applicant being a Government servant, he has to visit various districts regularly as well as to collect his movable and immovable property records for the disproportionate assets Case being Special Case No.39/2022, pending in the Court of learned Special Judge, Assam. Mr. Kamar, therefore, submits that the aforesaid condition Nos. (a), (b) and (e) may be relaxed and modified suitably.

6. Mr. M. Phukan, learned Public Prosecutor, has raised strong objection

against the prayer for modification of the bail conditions on the ground of the instant case being a serious one involving public interest and large scale corruption in the matter of recruitment of Gaonburah and his disproportionate assets.

7. After hearing the learned counsel of both sides and considering the grounds cited in the petition, the prayer for modification in the condition No. a) is waived and the condition Nos. b) and e) are modified as under-

b) That the accused applicant shall inform the learned Special Judge, Assam in writing supported by an affidavit and documents as and when he leaves the State of Assam and detail particulars of the places which he may visit with addresses for correspondence;

e) That the accused applicant shall deposit back his Passport, VISA etc., if any, after return from his trip to outside the State of Assam on expiry of the specified period in the order of permission given by the learned Special Judge, Assam.

This order shall form part of the order, dated 23.06.2022, passed in Bail Appln. No. 3384/2021

With the above direction, the interlocutory application stands disposed of.

JUDGE

Comparing Assistant