

GAHC010064962023



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

Case No. : Bail Appln./1243/2023

MD. SAHAB UDDIN @ MULLAH @ RAHIM
S/O- LT. AKKADASH ALI @ LT. AKADDAS ALI, PERMANENT R/O- VILL-
BEDUATI, P.S. JAMUNAMUKH, DIST.- HOJAI, ASSAM AND PRIOR TO
ARREST WAS RESIDING AT VILLAGE- PACHIM BUNDASHIL, C/O ISLAM
UDDIN, P.S. BADARPUR, DIST.- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR K K KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 01.08.2023

Heard Mr. B. Prasad, learned counsel appearing for the accused petitioner as well as Mr. D. P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Md. Sahab Uddin @ Mullah @ Rahim**, has prayed for grant of bail in connection with **Badarpur GRPS Case No. 9/2021** under Sections **120B/166(A)** of the IPC, r/w

Section **14** of Foreigners Act and Section **12(1)(c)** of the Passport Act, corresponding to G.R. Case No. 2096/2021.

The scanned copy of the case record, as called for, is received.

Mr. B. Prasad, learned counsel appearing for the accused petitioner, submits that the accused has been in judicial custody for about two years without any progress in trial of the case. Therefore, Mr. Prasad submits that considering the length of detention, he may be released on bail subject to any condition(s).

Mr. B. B. Gogoi, learned Addl. Public Prosecutor, Assam, submits that the case record reveals that although the charge-sheet in the case was submitted on 29.09.2021, the charges are yet to be considered and framed due to non-appearance of some of the accused persons.

The FIR reveals the allegation that the informant, the SI, RPF, NF Railway, Badarpur, handed over 15 suspected Rohengyas (Myanmar) persons, who were found sitting in the platform, to the OC/BPB, NF Railway.

It is noticed that the accused petitioner has been in judicial custody since 10.08.2021, i.e. for 736 days.

On perusal of the case record, it appears that the police laid a charge-sheet under Sections 120B/166(A) of the IPC and 370/371 of the IPC, r/w Section 14 of Foreigners Act and Section 12(1)(c) of the Passport Act against the accused petitioner and six others, vide order, dated 29.09.2021. However, thereafter, the charges could not be considered and framed by the learned Trial Court due to non-appearance of the co-accused persons. There is also no hope of even commencement of trial of the case not to speak of disposal of the case in near future. The accused petitioner is a permanent resident under Hojai P.S. of Assam.

Considering the entire aspects of the matter, this Court is of the opinion that further continuation of detention of the accused in the interest of investigation is not warranted.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 40,000/-** with two sureties of like amount to the satisfaction of the **learned Chief Judicial Magistrate, Karimganj** subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any of the remaining prosecution witnesses; and
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission; and
- iv) That out of the two sureties, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Any breach of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant