

GAHC010095172023



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

Case No. : Bail Appln./1626/2023

JAMIR ALI @ JOMIR ALI SK
S/O S/O LATE HUJUR ALI
VILL- KAMARDIHI PART-I
P.S. CHAPAR
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-05-2023

Heard Mr. N. Uddin, learned counsel for the petitioner and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC the petitioner, namely, **Jamir Ali @**

Jomir Ali Sk is seeking bail in **Chapar P.S. Case No. 541/2020** registered under Sections 153(A)/34 IPC with added Section 120(B) IPC corresponding to G.R. No. 1863/2020, wherein, he was shown arrested on 20.03.2023 and since then, he is in custody.

As per the FIR of the case, lodged before the Salkocha Police Outpost on 04.12.2020, one Kolimuddin Talukdar is trying to create communal disharmony and inferno and on 06.12.2020 by distributing posters on Babri Maszid and posting it in different places of Dhubri. Said Kolimuddin owns an Autoricshaw and he was supposed to use his said Auto to distribute the hateful matters. On the basis of such secret and credible information, police conducted raid and detained said Kolimuddin in custody.

During interrogation, said Kolimuddin revealed that he along with one Luthfur Rahamn and Abdus Salam, Member Secretary of Popular Front of India (PFI), a banned organization admitted the fact that they are about to distribute the pamphlets as well as resort to postering so as to create communal tension and to initiate a riot in a communally sensitive district like Dhubri. Those arrested accused persons named the petitioner regarding his involvement in the crime.

As such he was arrested on 01.02.2023 in connection with Bilasipara P.S. Case No.313/2023 registered under Sections 120(B)/153/153(A)/153(B)/505/507 of the IPC read with Sections 17/18/19/20 of the Unlawful Activities (Prevention) Act.

A coordinate Bench of this Court vide order dated 27.04.2023 released the petitioner on bail, passed in BA No. 1492/2023 in said Bilasipara P.S. Case No.313/2023.

The petitioner was shown arrested on 20.03.2023 in connection with said Chapar P.S. Case No. 541/2020 and for the last 64 days he is in custody.

On being enquired, Mr. Goswami, learned Additional Public Prosecutor, Assam on specific instruction submitted that till date, no charge-sheet has been filed against the petitioner in said Chapar P.S. Case No. 541/2020.

In view of the above, the petitioner is entitled for bail due to fault on the part of the prosecution to file charge-sheet within the time considering the involvement of the petitioner in the alleged crime.

Accordingly, the petitioner, namely, **Jamir Ali @ Jomir Ali Sk**, be released on bail in said Chapar P.S. Case No. 541/2020, on furnishing a bail bond of Rs.35,000/-, with 2 (two) local sureties of the like amount, to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Bilasipara on conditions that the petitioner shall – **(i)** appear before the Investigating Officer of said Chapar P.S. Case No. 541/2020 as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the Chapar Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** he 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 to any police officer, failing which, the bail granted to him in the aforesaid Chapar P.S. Case No. 541/2020 shall stand automatically vacated.

Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant