

GAHC010120762023



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

Case No. : Bail Appln./1982/2023

SADDAM HUSSAIN
S/O SIRAJUDDIN ALI
R/O VILL- 2 NO. ISLAMPUR,
P.S. BIHPURIA
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. K MALAKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

15.06.2023

Heard Mr. K. Malakar, learned counsel for the accused-petitioner and Ms. S.H. Borah, learned Addl. PP for the State.

2. This bail application has been filed by the petitioner, namely, **Saddam Hussain**, praying for bail in connection with Hatigaon P.S. Case No. 443/2022

under Sections 406/420/489(A)/489(D) of the IPC.

3. It is submitted that the petitioner was arrested on 16.03.2023 in connection with the aforesaid case. This Court had called for the case diary on 09.06.2023 and 13.06.2023.

4. Today when the matter is called up, the learned Addl. PP has produced the case diary.

5. It is seen that the petitioner has completed the mandatory period in custody as prescribed by the statute.

6. The learned Addl. PP for the State submits that charge-sheet in the matter has not yet been filed and the investigations have not been completed.

7. The learned counsel for the petitioner submits that the petitioner ought to be released on default bail as his rights are accrued under Section 167 Cr.P.C.

8. Having heard the learned counsel for the parties, this Court is of the view that mandatory period as prescribed under the statute has been completed and the petitioner is still in custody and charge-sheet having not been filed, the petitioner is entitled to be released on default bail. As has been held in ***Rakesh Paul Vs. State of Assam***, reported in **(2017) 15 SCC 67** and ***M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence***, reported in **(2021) 2 SCC 485** when the accused applies for bail under Section 167(2) Cr.P.C. upon expiry of the statutory period, the Court must release him on bail forthwith. The rights of the accused-petitioner under Section 167 can also be enforced orally as has been held by the Apex Court in *Rakesh Paul (Supra)*. Considering the length of detention and considering the prayer made by the learned counsel for the accused-petitioner invoking his right under Section 167(2) of the Cr.P.C., the accused-petitioner is directed to be released on bail.

8. Accordingly, invoking the provisions of Section 167 Cr.P.C., this Court is of the view that the accused-petitioner is required to be released on bail as he has completed the mandatory period.

9. Accordingly, the accused-petitioner, named above, shall be released on default bail in connection with the aforementioned case, on furnishing a bail bond of Rs. **40,000/-** (Rupees Forty Thousand Only) with one local surety of like amount to the satisfaction of the Court of Chief Judicial Magistrate, Kamrup(M) at Guwahati, subject, of course, to the following conditions:

(i) That the accused-petitioner shall appear before the Investigating Officer on each and every date till completion of the investigation;

(ii) That the accused-petitioner shall not hamper or tamper with the investigation in any manner;

(iii) That the accused-petitioner 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

(iv) That the accused-petitioner shall not move out the jurisdiction of the Hatigaon Police Station without permission of the concerned Court.

10. Accordingly, the bail application stands disposed of.

11. Return the case diary.

JUDGE

Comparing Assistant