

GAHC010128792023



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

Case No. : AB/2104/2023

KHAIRUL ISLAM
S/O- LATE HUSSAIN ALI, A R/O- VILL- DATIALBORI, P.O. DATIALBORI, P.S.
LAHORIGHAT, DIST.- MORIGAON, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 21.07.2023

Heard Mr. M. A. I. Hussain, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Khairul Islam*, who is apprehending arrest in connection with Lahorighat P.S. Case No. 11/2023 under Sections 120(B)/419/468/471 of IPC read with Section 14(C) of the Foreigner's Act.

The accusation in this case is that on 17.01.2023, one Mofidul Islam, S.I.(B), had lodged an FIR before the Officer-in-Charge of Lahorighat Police Station, *inter alia*, alleging that the present petitioner along with in collaboration with local BLO and the Village Headman entered the name of one Bangladeshi National, namely, Md. Saidul Islam, S/o- Abir Hussain in the electoral Roll of Village Datialbori (West) of No. 83 Dhing Legislative Assembly. On receipt of the said FIR, Lahorighat P.S. Case No. 11/2023 was registered.

Learned counsel for the petitioner submits that FIR lodged by the informant against the present petitioner is false and the present petitioner is an innocent person. He has also stated that the person who is stated to be a Bangladeshi National in the said FIR, namely, Md. Saidul Islam, S/o- Abir Hussain is an Indian voter and in support of his contention, the petitioner has produced the voter list of 1997 of No. 83 Dhing Legislative Assembly Constituency where name of Md. Saidul Islam, S/o- Abir is shown at Serial No. 6 of the said voter list.

On the other hand, learned Additional Public Prosecutor has produced the case diary which was called for in connection with this case and has submitted that there are incriminating materials against the present petitioner in the case diary.

I have gone through the case diary and considered the submissions made by learned counsel for both sides.

Considering the material in the case diary as well as material placed before this Court by the learned counsel for the petitioner and also considering the submissions made by learned counsel for both sides, this Court is of considered opinion that custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of the Lahorighat P.S. Case No. 11/2023.

In view of the above, the petitioner, namely, *Khairul Islam*, is hereby directed

to appear before the Investigating Officer of Lahorighat P.S. Case No. 11/2023 within a period of ten days from today from the date of this order. If he does so, within the stipulated period of time, in the event of his arrest in connection with the Lahorighat P.S. Case No. 11/2023, the petitioner shall be allowed to go on bail of Rs.20,000/- (Rupees Twenty Thousand) only with one surety of like amount to the satisfaction of the Arresting Authority, subject to the condition:-

- (i) That the petitioner shall cooperate with the Investigating Officer for fair completion of the investigation of the said case,
- (ii) That the 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 or her from disclosing such facts before the trial court.

With the above observations, the anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant