

GAHC010129072023



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

Case No. : Bail Appln./2081/2023

SANTANU RAY @ SANTANU MOHAN ROY
S/O SRI PRADIP KUMAR RAY @ PRADIP RAY
R/OMARAKURA, P.S. GOLOKGANJ
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. J C GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 25.07.2023

Heard Mr. J.C. Gogoi, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor, Assam for the State.

2. This bail application under Section 439 Cr.P.C. has been filed by the petitioners, namely Santanu Ray @ Santanu Mohan Roy who has been detained behind the bar since 03.05.2023 (since last 84 days) in connection with Kachugaon P.S. Case No. 21/2023 under Sections 120(B)/121/121(A)/122 IPC, read with Sections 4/5 of the Explosive Substance Act, read with Sections 17/18/18(B)/19/20/21 of Unlawful Activities (Prevention) Act, 1967 (corresponding to G.R. Case No. 207/2023).

3. The accusation in this case is that on 28.04.2023, one Sailendra Kalita SI of Police lodged an FIR before Officer In-charge of Kachugaon Police Station against five accused persons, namely Shri Uttam Ray, Shri Bipul Ray, Shri Krishna Roy, Shri D.L. Koch and Shri Narayan Barman @ Bikram Koch, *inter alia*, alleging that the said persons are members of Kamatapur Liberation Organization KN (KLO-KN) and planning to commit terrorist act to wage war against State and to threaten the unity, integrity and sovereignty of India by striking terror in the minds of common Citizens. On receipt of the said FIR, Kachugaon P.S. Case No. 21/2023 was registered.

4. The learned counsel for the petitioner submits that the present petitioner is no way involved in the offence alleged in the FIR and he is only an electrician and has been languishing behind the bar since last 84 days and therefore, prays for allowing the present petitioner to go on bail.

5. On the other hand, the learned Addl. Public Prosecutor, Assam has produced the case diary of Kachugaon P.S. Case No. 21/2023 and has submitted that there are incriminating materials in the case diary against the present petitioner.

6. I have perused the materials on record including the case diary of Kachugaon P.S. Case No. 21/2023 which has been produced before this Court by the learned Addl. Public Prosecutor as well as considered the submissions of learned counsel for both sides.

7. On perusal of the case record, it appears that the allegations in this case are also levelled against Sections 17/18/18(B)/19/20/21 of the Unlawful Activities (Prevention) Act, 1967 and as there are materials in the case diary against the present petitioner and as from the materials in the case diary, it appears that there are reasonable grounds for believing that the accusation against the present petitioner is *prima facie* true. Hence, the embargo of Section

43D (5) of the Unlawful Activities (Prevention) Act, 1967 comes into play in view of the said embargo, the present petitioner is not entitled to be released on bail at this stage, hence the prayer for bail of the present petitioner is rejected.

JUDGE

Comparing Assistant