

GAHC010221752023



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

Case No. : Bail Appln./3497/2023

JAHIDUL ISLAM
S/O SAKET ALI @ SAKED ALI
VILL- BARDIYA NAYAPARA
P.S. BOKO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

Date : 06.10.2023

Heard Mr. K. N. Choudhury, learned senior counsel appearing for the petitioner as well as Mr. B. B. Gogoi, learned Addl. P.P. appearing for the State respondent.

This application under Section 439 Cr.P.C., is preferred by the accused petitioner, namely, Jahidul Islam, who is in jail hajot since 19.09.2023, in connection with Boko P.S. Case No. 453/2022, registered under

Sections 120B/153/153A(1)(a)/153(1)(b)/153(1)(c)/153(2)/153B(1)(2)/504/505(1)(b)/505(1)(c)/505(2)/507 of the IPC, added Sections 10/13 of UA(P) Act.

As per the forwarding report, it is seen that the petitioner was found to be involved spreading the ideology of PFI secretly and visiting different villages in Santoly area for PFI. He was also working and participating in the meetings organized by the said organization. It is also seen that the PFI was banned, vide notification dated 27.09.2022.

It is submitted on behalf of the petitioner that after the organization was banned, the petitioner is not a member of the said organization anymore.

The petitioner is booked under Sections 120B/153/153A(1)(a)/153(1)(b)/153(1)(c)/153(2)/153B(1)(2)/504/505(1)(b)/505(1)(c)/505(2)/507 of the IPC, added Sections 10/13 of UA(P) Act.

It is also submitted on behalf of the petitioner that he cannot be held liable of offence under Sections 13 of UA(P) Act and there is no allegation against the petitioner of indulging in unlawful activities. The petitioner earlier filed A.B. No. 30/2023 and the same was rejected by the learned Special Judge, Kamrup at Amingaon, vide order dated 17.01.2023.

Learned senior counsel for the petitioner has drawn the attention of this Court to the observation of learned Trial Court that no materials were found against the present petitioner in the case diary and there was no reasonable apprehension of arrest and his prayer for pre-arrest bail was rejected by the learned Sessions Judge.

I have considered the submissions made at the Bar with circumspection. I have also perused the case diary.

It is noticed that the co-accused, who were named in the FIR, have already been enlarged on bail, vide orders dated 18.11.2022, 18.11.2022, 17.08.2023, 12.12.2022, passed in Bail Appln. 2700/2022, Bail Appln. 2619/2022, Bail Appln. 2505/2022 and Bail Appln. 3159/2022 respectively, which are marked as Annexure-11 series.

It is true that the co-accused, who were granted bail, as projected above, were named in the FIR and the present petitioner was, however, not named in the FIR.

The case diary also reflects that the investigation has progressed to a considerable extent.

Considering entire aspects of the matter and in view of my foregoing discussions, petition is allowed.

The petitioner is enlarged on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Special Judge, Kamrup at Amingaon under the condition that:-

- (i) the petitioner will refrain from such activities with which he is alleged, failing which, bail order will be cancelled.

Return the case diary.

This petition stands disposed of.

JUDGE

Comparing Assistant