GAHC010238132023

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

Case No. : Bail Appln./3804/2023

SHEIKH SAMSUL HAQUE @ LASON UDDIN
S/O LATE SHEIKH BOSIR UDDIN
VILL- MOHANPUR, R/A, P.S. ALGAPUR
DIST. HAILAKANDI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

17.10.2023

Heard Mr. A.M. Borbhuiya, learned counsel for the accused; Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent; and Mr. A.K. Talukdar, learned counsel for the informant.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Sheikh Samsul Haque @ Lason Uddin**, who has been languishing in jail hazot since 29.09.2023, in connection with the **Hailakandi P.S. Case No. 225/2023**, under Sections

120(B)/420/466/468/471/472/474/34 of the IPC read with Section 5 of the Emblems and Names [Prevention of Improper Use] Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Saidur Rahman Laskar, on 13.09.2023. The essence of allegations made in the FIR is that the accused and 17 others, without being competent to issue marriage document use to issue the same, by misleading the common people into the belief that they are competent to issue marriage document, despite there being compulsory requirement for registration of marriage and they use to issue the same violating the direction issued by the Circle Officer and the Deputy Commissioner of Hailakandi district, in respect of issuance of marriage document, which is contrary to the provision of Muslim Marriage and Divorce Act, 1935 and they neither the Government authorized nor the License holder, but they use to issue Muslim Marriage document without following specific guideline issued by this Court in Writ Petition No. 5122/2009.

4. Mr. Borbhuiya, learned counsel for the accused submits that the accused was arrested on 29.09.2023, and since then he has been languishing in jail hazot for last 19 days. Mr. Barbhuiya further submits that though he is not authorized to issue Muslim Marriage document, yet, he assist the registered Kazis to issue Muslim Marriage document and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Baishya, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has achieved substantial progress in investigation and his custodial detention is required in the interest of investigation and therefore, it is contended to dismiss the petition.

6. Whereas, Mr. Talukdar, learned counsel for the informant submits

that the accused is not authorized to issue Muslim Marriage document, but he has been issuing fake Muslim Marriage document. Mr. Talukdar further submits that he is habituated to the same, as earlier occasion also, some cases were lodged against him and the accused used to threaten the informant to implicate him with the non-bailable offences relating to NDPS Act and for which the informant had lodged the complaint before the Superintendent of Police, Hailakandi.

7. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

8. It appears that the accused has been arrested in this case on 29.09.2023 and since then, he has been languishing in jail hazot for last 19 days. Further it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case and further custodial detention of the accused seems to be unwarranted here in this case and accordingly it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Hailakandi**, the accused be enlarged on bail.

9. The above privilege is, however, subject to the following conditions:

[i] the accused shall refrain from issuing such Muslim Marriage document forthwith;

[ii] the accused shall appear before the IO as on when directed; and

[iii] the accused 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.

10. In terms of above, this bail application stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant