

GAHC010262172022



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

Case No. : Bail Appln./3590/2022

MD. BAHARUL ISLAM
S/O LT. MUNIRUDDIN
R/O VILL- SONAPUR RESERVE GAON, P.O. SONAPUR, P.S. BIHPURIA
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR DEBA SARMAH

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE ROBIN PHUKAN

04-01-2023

Heard Mr. D. Sarmah, learned counsel for the accused. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State Respondent.

This application under Section 439 of the Code of Criminal Procedure is preferred by accused – ***Md. Baharul Islam***, who has been languishing in jail

hajot in connection with ***North Lakhimpur Police Station Case No.262/2022, registered under Sections 120(B)/121/121(a) I.P.C., read with Sections 10/13/ 15(1)(a)/17/18/18(B) U.A.(P) Act, and Section 66 (F) IT Act*** since 22.10.2022, for grant of bail.

The aforementioned case has been registered on the basis of an FIR lodged by one Uddhab Nath, Inspector of Police on 25.5.2022, to the effect that he came to know from reliable sources that some newly recruited ULFA(I) cadres, namely- (1) Smti Samistha Saikia; (2) Sri Jayanta Saikia; (3) Sri Paban Saikia, (4) Smti Rinku Bhuyan, and (5) Sri babul Gogoi are directly involved in canvassing and recruiting youths from different parts of Lakhimpur Districts, to join the banned ULFA(I) organization, by engaging some local youths through social media, facebook, etc.

Mr. Sarmah, learned counsel for the accused submits that the name of the accused is not mentioned in the FIR and he has been languishing in jail hajot since 22.10.2022 and some of the co-accused have already been granted bail by this Court, and therefore, Mr. Sarmah contends to allow the petition.

On the other hand, Mr. B.B. Gogoi has produced the case dairy before this Court and submits that as per the note of the I.O., the accused was working as a linkman with ULFA. However, Mr. Gogoi submits that there is no material in the case diary to support the said note of the I.O.

Having heard the submission of the learned Advocates for both sides, I have carefully gone through the petition and the documents placed on record and also the perused the case dairy with the assistance of Mr. Gogoi, learned Additional Public Prosecutor.

It appears that the investigation is still going on. But, the materials collected so far in the case diary appears to be quite inadequate to support the allegations made in the FIR. In view of the above, this Court is of the view that

there is no reasonable ground for believing that the allegations made in the FIR as well as the materials collected so far in the case diary against the present accused is prima facie true and, as such, the bar of Section 43D(5) of U.A.(P) Act, 1967, would not stand in the way in enlarging the accused on bail at this stage.

Having regard to the above, and also having regards to the submission made by the learned advocates for both sides, this Court is of the view that a case for granting bail to the accused is made out.

Accordingly, it is provided that on furnishing bail bond of Rs.25,000/- with one surety of the like amount to the satisfaction of the learned Sessions Judge, Lakhimpur, North Lakhimpur, the accused abovenamed be enlarged on bail in connection with the above mentioned case.

The bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant