

GAHC010263292022



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

Case No. : Bail Appln./3565/2022

MOSTAFIZUR RAHMAN @ MUSTAFIJUR RAHMAN
S/O ABDUS SAMAD @ ABDUS CHAMAD
R/O VILL- KARAGARI
P.O. CHAPARBORI, P.S. BARPETA,
DIST. BAJALI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

06-01-2023

Heard Ms. M. Das, learned counsel for the applicant and Mr. BB Gogoi, learned Addl. PP, Assam.

This application under section 439 Cr.P.C., is preferred by the applicant, namely, **Mostafizur Rahman @ Mustafijur Rahman**, who has been languishing in jail hajot since 31.10.2022, in connection with **Ghograpar Police Station Case No.163/2022**, under **sections 120(B)/121/121(A)/122 of the IPC**, read with **sections 10/13 of the Unlawful Activities (Prevention) Act**, since 30.10.2022, for grant of bail.

The said case has been registered on the basis of an FIR lodged by Chandan Deka, O/C Ghagrapar P.S. on 16.10.2022, to the effect that based on credible inputs

and backed by technical intelligence regarding activities of global terror outfit, banned by Government of India, operating in different parts of Assam and other places of India, a preliminary enquiry was carried out vide Tampulpur PS GD Entry No.289, dated 15.10.2022, and that during the enquiry it came to light that a module Al-Qaeda in the Indian-Sub-continent (AQIS) is active in different districts of Assam as well as in Tamulpur and further it was revealed that the identified module has also an affiliation with a Bangladesh Based Terror Outfit namely Ansarullah Bangla Team (ABT) having affiliation to Al-Qaeda. Further, it was learnt that one Sadek Ali @ Sadiqur, presently working as a teacher at Dongargaon Bholajhar Anchalik Madrass, and Jekibul Ali of Namati have been found involved in banned activities of waging war against the Union of India by indoctrinating minds of various people.

The learned counsel for the accused submits that the accused was arrested on 31.10.2022, and he has been languishing in jail hazot for last 67 days and that he is ready to cooperate with the investigating agency and that he is in no way involved with the offence alleged in the FIR and, therefore, it is contended to allow the petition.

On the other hand, producing the case diary before this Court, the learned Additional Public Prosecutor submits that the Investigating Officer has collected sufficient materials against the accused and, therefore, it is contended to dismiss the petition.

Having heard the learned counsel for both sides, I have carefully gone through the petition and also perused the case diary with the assistance of Mr. Gogoi, learned Additional Public Prosecutor.

It appears that during the course of investigation, the investigating officer has collected sufficient incriminating materials against the accused. The allegations, levelled in the FIR, are serious in nature and the investigating is still going on. Considering the above and also considering the bar of Section 43D(5) of the Unlawful

Activities (Prevention) Act, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused.

Accordingly, the petition stands dismissed.

Case dairy be returned.

JUDGE

Comparing Assistant