

GAHC010263302022



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

Case No. : Bail Appln./3564/2022

MOSTAFIJUR 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
RE. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

17.01.2023.

Heard Mr. N. Mahajan, learned counsel for the accused. Also heard Mr. BB Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, is preferred by accused, namely, Mostafizur Rahman @ Mustafijur Rahman, who has been languishing in jail hazoot since 19.10.2022, in connection with the Tamulpur P.S. Case No.189/2022, under sections 120(B)/121/121(A)/122 of the IPC, with added Sections 10/13 of the UA(P) Act, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by the Officer-in-Charge of the Tamulpur P.S. The gist of the allegation; made in the FIR is that, some people are involved with Bangladesh based terror outfit, namely, Ansarullah Bangla Team (ABT), having affiliation to AQIS in Indian Sub-Continent and the objection of the said organization is to propagate terror in India, radicalize like minded youths, and to carry out regular recruitment process to wage war against the State and Union of India, with a view to overthrow the democratically elected Government to establish the 'Rule of Khilafat' (Sharia Law) in India. And the accused has also joined with the militant organization through software app and developed local network for making communication and induction of local members and incriminating materials and software apps were found in his laptop and mobile devices.

4. Mr. N. Mahajan, learned counsel for the accused submits that the accused was arrested on 19.10.2022, and since then he has been languishing in jail hazoot for 90 days and till date, no charge sheet has been submitted and as such, the accused is entitled to default bail, under Section 167(2) CrPC.

5. Mr. BB Gogoi, learned Addl. P.P., Assam appearing for the State respondent has produced the case diary before this Court and submits that no charge sheet has been submitted against the accused till date and there is

no material to show that the period of investigation has been extended by the learned Court below.

6. In view of above, this Court is of the opinion that the accused is entitled to default bail under Section 167(2) CrPC, since no charge sheet is filed till date.

7. Accordingly, it is provided that on furnishing a bond of Rs.1,00,000/ (Rupees One Lakh) with one surety of like amount, to the satisfaction of learned CJM, Baksa at Mushalpur/Special Judge, Baksa at Mushalpur, under the UA(P) Act, the accused named above shall be enlarged on bail, in connection with the Tamulpur P.S. Case No.189/2022.

8. In terms of above this B.A. stands disposed of. The Case Diary be returned.

JUDGE

Comparing Assistant