

GAHC010264362022



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

Case No. : Bail Appln./3605/2022

TANU KUMAR DHADUMIA
S/O LT. PHULESWAR DHADUMIA,
VILL- KAWAIMARI GAON
P.S. NAMRUP
DIST. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.01.2023

Heard Mr. H.R.A. Choudhury, learned senior counsel assisted by Mr. I.U. Choudhury, learned counsel for the accused and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Tanu Kumar Dhadumia, who has been languishing in jail since 26.10.2022, in connection with the Ghagrapar P.S. Case No. 163/2022, under Sections 120(B)/121/121[A]/122 of the IPC read with sections 10/13 of the UAPA Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by SI Chanda Deka, on 16.10.2022, to the effect that on 15.10.2022 credible information has been received that some terrorist of global terror outfit banned by Government of India are gone under the jurisdiction of Ghagrapar PS and on inquiry it was found that a module of Al-Qaeda is active in Choto Alliya, Ghagrapar, Nalbari with linkage to other districts as well and one Sadeq Ali; Habel Ali; Jikibul Ali @ JK; Abu Raihan; and Jubir Hussain are involved in banned activities of waging war against the Union of India by indoctrinating the minds of various people and on sustained questioning of accused, Habel Ali it has been revealed that objective of their organization is to propagate terror in Indian Territory radicalize like-minded youths and to carry out regular recruitment and training process to wage war against Union of India with a view to overthrow the democratically elected Government and to carry out 'Jihad' terror activities to kill the 'Kafir' persons of other religions and to establish the Islamic State in India.

4. Mr. Choudhury, learned counsel for the accused submits that the accused is behind the bar for last 74 days and that one of the co-accused namely, Abdul Baten has already been enlarged on bail by this court in BA No. 3159/2022, vide order dated 12.12.2022, and that the present accused is innocent and he was only arrested for inauguration one Miya Museum in Goalpara district and for inauguration of the said Miya Museum they have informed the Deputy

Commissioner, Goalpara and he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition. Mr. Choudhury further submits that he is working as Principal of Naharkatia Junior College, Dibrugarh.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the materials collected so far in the case diary against the present accused is inadequate to show his complicity with the offence under sections 10/13 of the UAPA Act. Mr. Gogoi further submits that the accused was invited to inaugurate the Miya Museum at Goalpara by the Miya Parishad and the Miya Parishad is not a banned organization.

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

7. It appears that the accused is behind the bar for last 74 days. It also appears from the forwarding report dated 26.10.2022, that he was present at the time of inauguration of Miya Museum at Goalpara. Though it is stated that the organizers of the Miya Museum receive instruction and financial assistance from the banned organization of Al-Qaeda, yet, admittedly that there is inadequacy material to show the complicity of the present accused with the said offence under sections 10/13 of the UAPA Act.

8. Having regards to the nature of accusation and the punishment prescribed for the same and the submission of the learned counsel for both the parties as well as the period of detention, this court is of the view that 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, Nalbari / learned Special Judge, UAPA Act, Nalbari, the accused be enlarged on bail.

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

10. The case diary be returned.

JUDGE

Comparing Assistant