

GAHC010271212022



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

Case No. : AB/3847/2022

MD. AKMAL HUSSAIN
S/O LATE IRFAN ALI,
VILL.- AMINPARA,
P.S.- ROWTA,
DIST.- UDALGURI, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. S K ROY
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

10.03.2023

Heard Mr. S. K. Roy, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely, **Md. Akmal Hussain**, apprehending their arrest in connection with **Udalguri P.S. Case No. 135/2022** registered u/s **120(B)/153/153A /153B/504/505/507** of the IPC corresponding to G.R.Case No. 646/2022.

The Case diary, as called for, is placed before the Court.

Mr. S. K. Roy, learned counsel appearing for the petitioner, submits that the petitioner has been roped into a false case. Mr. Roy submits that the petitioner was never an activist of the Popular Front of India (PFI) and he did not get involved in even any associated misdeeds. Mr. Roy further submits that during the alleged commission of the offences, the PFI was not declared as a banned organization and as such no restriction in pre-arrest bail is applicable to him.

Per contra, Mr. R. J. Baruah, learned Addl. Public Prosecutor submits that under Section 43D(4) of the U.A.(P) Act, the pre-arrest bail application of the petitioner is not maintainable. On the other hand, Mr. Baruah submits that there are sufficient incriminating materials against the petitioner and the investigation is yet to be completed.

The brief fact of the case is that as per reliable source information has been received that, certain PFI activities are making all out attempts to flare up the communal passion in the district with the national activities body of PFI has chalked out several programs to create unrest and to misguide the youth of the minority community by targeting various policies/schemes of the Govt. like CAA, NRC, D-Voters, the new state education policy, cattle preservation act, eviction of encroached Govt. land etc. with a view to term, these actions of the Govt. as a direct attract on the Muslim community and the minor community should fight back and take revenge on the majority community and the ruling party members.

On scrutiny of the evidence, so far collected by the investigating officer, it is revealed that there is direct incriminating material of serious nature against the petitioner.

The investigation is also yet to be completed.

Therefore, this Court is of the opinion that it is not a fit case to grant the privilege of pre-arrest bail, which is also barred under Section 43D(4) of the U.A.(P)

Act, 1967, in favour of the petitioner.

Accordingly, the pre-arrest bail application of the petitioner stands rejected.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant