

GAHC010095152024



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

Case No. : Bail Appln./1366/2024

KAMRUL HUSSAIN MAZARHUIYA
S/O MONIR UDDIN MAZARBHUIYA
R/O CHANDRAPUR
P.S. HAILAKANDI,
DIST. HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 21-05-2024

- 1.** Heard learned Senior Counsel Mr. HRA Choudhury for the petitioner assisted by learned counsel Mr. F.U. Barbhuiya.
- 2.** The petitioner namely, Kamrul Hussain Mazarhuiya has filed this application

under Section 439 Cr.PC with prayer for bail as he is behind bars since 19.04.2024 in connection with Hailakandi P.S. Case No. 110/2024 registered u/s 120(B)/153(A)/121/121(A)/506/295(A)/505(1)(b) of the IPC.

3. Heard Mr. B.B. Gogoi, learned Addl. PP., Assam

4. The allegation against the petitioner by the informant is that the petitioner along with his co-accused hatched-up a conspiracy to polarise the voters during the parliamentary election in the name of religion, race and community and with intent to create disturbances, breach of peace and communal disharmony in the State. A video clip of the petitioner threatening one MLA went viral.

5. It is submitted on behalf of the petitioner, that a false case has been slammed against him by a rival fraction. The translated part of the video clip which has become viral is also reproduced by the petitioner in para 7 of the petition. This video clip is also annexed in the Case Diary.

6. I have considered the submissions at the Bar with circumspection. I have also scrutinised the Case Diary. I have considered the submission that the petitioner is behind bars for more than 1 month and election is already over. Investigation has also progressed to a considerable extent. It appears that custodial detention for the progress of investigation may not be required. It is also submitted on behalf of the petitioner that no case u/s 121, 121(A), 153(A), 295(A) is made out against the petitioner.

7. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- (Rupees Fifty thousand) with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Hailakandi under the conditions that:

- i. The petitioner shall refrain from such activities with which he is alleged;
- ii. the petitioner shall co-operate with the remaining part of the investigation;

iii. the petitioner shall not exercise threats to the witnesses.

On breach of any bail conditions, bail order shall stand cancelled.

JUDGE

Comparing Assistant