

GAHC010153312024



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

Case No. : Bail Appln./2262/2024

MIZANUR RAHMAN
S/O SONAB ALI, R/O VILL- BHURAKATA, P.S.-MANKACHAR, DIST- SOUTH
SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR Z HUSSAIN, MR A K DAS, MR. RASHIDUL ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 20.09.2024

Heard Mr. Z. Hussain, learned counsel for the accused-petitioner as well as Mr. B. Sarma, learned Additional Public Prosecutor for the State.

2. By this petition filed under Section 483 of the Bharatiya Nagarik

Suraksha Sanhita, 2023, the petitioner, namely, **Mizanur Rahman**, has prayed for granting bail in connection with **Sessions Case No. 146/2023 (arising out of Mankachar P.S. Case No. 397/2023) registered under Section 212 IPC r/w Section 14 A (b) of Foreigners Act, 1946 and r/w Section 3(3) of Passport (Entry into India) Act, 1920.**

3. It is submitted by the learned counsel for the petitioner that the petitioner is an Indian national though he was booked for the offence under Section 14(A) of Foreigners Act, 1946. It is further submitted that the petitioner was arrested purely on suspicion, without any material evidence to establish a connection with the Bangladeshi citizen. It is also submitted that the petitioner is an Indian citizen and if the police or competent authority has doubts regarding his citizenship, the matter should be referred to the appropriate tribunal for determination of his citizenship status. Till date, only one witness has been examined in this case. Considering the length of detention and background of the case, the petitioner may be enlarged on bail.

4. On the other hand, Mr. Sarma, learned Additional Public Prosecutor for the State has submitted that out of seven witnesses, only one witness has been examined in this case. However, the learned trial court may be directed to expedite the trial.

5. I have considered the submissions made by the learned counsel for the parties. I have also perused the trial court record.

6. It appears that the accused/petitioner was booked for the offence

under Section 14(A) of Foreigner Act, 1946 and only one witness has been examined till date. Regarding nationality of the petitioner; whether Indian or Bangladeshi, the petitioner may approach before the appropriate forum.

7. On consideration of the matter in its entirety, this Court is not inclined to grant of bail to the accused/petitioner, at this stage. Therefore, prayer for bail is rejected. However, trial court is directed to expedite the trial.

8. The bail application stands disposed of.

JUDGE

Comparing Assistant