

GAHC010173342023



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

Case No. : AB/2776/2023

MUKTADIR HUSSAIN
S/O ABDUL HAQUE
VILL- BADEMAIZ,
P.S. BADARPUR
DIST. KARIMGANJ, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 29-01-2024

Heard Ms. L. Wajeeda, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Karimganj P.S. Case No. 573/2022,

under Sections 120(B) /153 /153 (A)(1) (a) /153 (1) (b)/ 153(1)(c)/153(2)/ 153 B (1) & (2)/504/ 505(1) (b)/505(1)(c)/ 505(2)/505(3)/507 IPC corresponding to G.R. Case No.1819/2022 , an application u/s 438 Cr.P.C. is preferred by the applicant, namely, Muktadir Hussain, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR, lodged by one Jyotish Kr. Nath on 27.09.2023.

The essence of allegation made in the said FIR, is that the applicant is involved in the activities of PFI (Popular Front of India) and making all out attempts to flare up the communal passions in the district of Karimganj and trying to whip the communal passions and sentiments of the religious minority community by instigating people in the name of religion and by propagating falsehood through their channels to create a fear psychosis and they are also targeting various policies/ schemes of the Government like CAA, NRC, D-Voter, the new State Education Policy, Cattle Preservation Act, AFSPA, TET recruitment, Agnipath scheme, evictions of encroached Government lands, etc. with a view to term these actions of the Government as a direct attack on the Muslim community and also violating the orders issued by the district administration in order to create law and order situation and also gave inflammatory speeches on their raising day at few places in the district.

The learned counsel for the applicant submits that the applicant is neither a member of the PFI nor he has been assisting the said organization and some of the accused have already been granted the privilege of bail, by this Court in B.A No. 3064/2022, vide order dated 14.12.2022, and that the applicant is ready to cooperate with the investigating agency and he is also suffering from different ailments and the relevant documents have been enclosed, therefore it is contended to allow the petition.

On the other hand, Mr. Lahkar, learned Addl. P.P. produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused and that the accused has been participating in the meeting and also instigating one community against the others, and that the medical documents placed on record were obtained before the rejection of the first application, therefore, Mr.Lahkar has vehemently opposed the petition.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. P.P.

The case diary indicates that the I.O has collected sufficient incriminating materials against the accused. Investigation is still going on. At this stage it cannot be said that the custodial interrogation of the accused is not required in the interest of investigation. Though the ground of ailment has been taken, it appears that the documents submitted in support of the same were obtained prior to rejection of the first application.

Considering the above, and also considering the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant.

Accordingly, the petition stands dismissed.

Case diary be returned.

JUDGE

Comparing Assistant