

GAHC010133822022



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

Case No. : Bail Appln./1605/2022

ABHIJIT GOGOI
S/O- SRI KRISHNA GOGOI, R/O- LONGPATIA, NO. 2 HATIPUKHURI, P.S.
SONARI, DIST. CHARAIDEO, ASSAM-785692.

VERSUS

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

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 01.08.2022

Heard Mr. D. Medhi, learned counsel for the petitioner. Also heard Mr. Bhaskar Sarma, learned APP appearing for the State.

By this application filed under Section 439 Cr.P.C., the petitioner, who was arrested on 04.06.2022 in connection with Dispur P.S. Case No. 1348/2022

under sections 120(B)/121/121(A) IPC read with section 32(2) UA(P) Act, is praying for regular bail.

The allegation against the petitioner is that he was continuing to upload comments in favour of ULFA, a banned organization.

The learned counsel for the petitioner has submitted that the petitioner is only a 24 year old young boy, who did not know the implications of sharing post in the social media. Accordingly, as the petitioner has already suffered custody for 57 days as on today, he may be released on bail in any stringent condition.

The learned APP has produced the case diary and has opposed the prayer for bail. It is submitted that the investigation carried out so far implicates the petitioner of sharing comments in favour of the banned organization in social media platform like Facebook and thereby the petitioner was propagating the ideology of the said banned organization and was writing in support of the said organization.

On perusal of the case diary, it is seen that the mobile phone of the petitioner was seized and the investigation carried out so far implicates the petitioner of making objectionable posts propagating the ideology of the banned organization, which was uploaded by the petitioner in his Facebook Account. Accordingly, the Court *prima facie* finds that the action of the petitioner would falls within the meaning of section 39 of the Unlawful Activities (Prevention) Act, 1967. Therefore, the Court would be bound by the proviso to section 43D of the Unlawful Activities (Prevention) Act, 1967.

Therefore, there is no material by virtue of which the Court can arrive at a *prima facie* finding that on perusal of the case diary, it can be believed that the acquisition against the petitioner is untrue.

Therefore, the Court is not inclined to release the petitioner, namely, Abhijit Gogoi on bail.

Accordingly, the prayer for bail is rejected at this stage.

Case diary is returned.

JUDGE

Comparing Assistant