

GAHC010189262022



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

**Case No. : Bail Appln./2349/2022**

VICTOR DAS  
S/O LT. KUMUD CH. DAS  
R/O DADARA, P.S. HAJO  
DIST. KAMRUP (R)

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. A M BORA**

**Advocate for the Respondent : PP, ASSAM**

**B E F O R E**  
**HON'BLE MR. JUSTICE ROBIN PHUKAN**

29-09-2022

Heard Mr. A.M. Bora, learned senior counsel assisted by Mr. D.K. Baidya, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State Respondent.

This application under Section 439 of the Code of Criminal Procedure, is preferred by accused – **Victor Das**, for grant of bail, who has been languishing in jail hajot in connection with **Panbazar P.S. Case No.233/2022** registered under **Sections 120B/505/153/153A/384/511 of the Indian Penal Code.**

The said case has been registered on the basis of an FIR lodged by one Nikhil Ranjan Nag on 9.9.2022 to the effect that on 8.9.2022, Shri Victor Das appeared in the Panbazar Police Station and made an alarming allegation that certain lobby of individuals had been demanding money from interested candidates for securing a backdoor entry into the posts to be filled up by the recently concluded Assam Direct Recruitment Examination for Grade-III and Grade-IV posts. He also alleged that the user of the Mobile Phone No.9101422338 has been demanding money in exchange of guaranteed appointment into these posts.

Accordingly, an enquiry was initiated and it was found that no incident, as alleged by Mr. Victor Das, has taken place, and contrary, it was found that Mr. Victor Das was actively promoting falsehood and rumors through his official Twitter handle [@KingV\_6768] and he has made unfounded and unsubstantiated claims to introduce mass paranoia among the public since 28.08.2022. He has also alleged that the question papers of the exam had got leaked prior to the examination had taken place and during enquiry no such evidence of leaking of question paper has been found and the examination was held in fair and transparent manner and Mr. Victor Das has deliberately and maliciously published fake news and started a misinformation campaign with criminal conspiracy to derail the entire examination procedure.

Mr. A.M. Bora, learned senior counsel for the accused applicant submits that a perusal of the FIR reveals that no ingredients of the offence under Sections 120B/505/153/153A/384/511 of the I.P.C. is found, though the case has been registered under the aforementioned sections.

Referring to the judgment of the Hon'ble Supreme Court in the case of ***Manzar Sayeed Khan Vs. State of Maharashtra and another***, reported in **(2007) 5 SCC 1**, Mr. Bora, learned senior counsel submits that the Hon'ble Supreme Court has held that intention to cause disorder or incite people to violence is the *sine qua non* for the offence under Section 153-A and the prosecution has to prove prima facie the existence of *mens rea* on the part of the accused, and in the case at hand, no such *mens rea* has been shown to have existed by the prosecution side and that none of the ingredients of the offences, under which the case has been registered, has been made out and the accused-applicant has been granted interim bail by this Court vide order dated 16.09.2022 and, therefore, Mr. Bora, learned senior counsel contends to make the interim order dated 16.09.2022 absolute on the same terms and conditions.

On the other hand, producing the Case Diary before this Court, Mr. Das, learned Additional Public Prosecutor submits that the accused has been indulging in making false allegations through his Twitter Handle @KingV\_6768 and that the Investigating Police Officer has collected sufficient materials against him and, therefore, it is contended to dismiss the petition.

Having heard the submissions made by learned counsel for both the sides, I have carefully gone through the petition and the documents placed on record. I have also perused the case diary produced by the learned Additional Public Prosecutor and also the case law relied upon by Mr. A.M. Bora, learned senior counsel for the accused. I have also perused the additional affidavit submitted by the accused on 27.09.2022 and I

finds substance in the submission made by Mr. A.M. Bora, learned senior counsel for the accused.

Having carefully gone through the materials, so far collected in the case diary, the same leaves this Court unimpressed about the existence of the ingredients, which are required to make out offences under which the case has been registered.

The accused was arrested on 9.9.2022, and forwarded to the judicial custody on 10.09.2022, and he has been granted interim bail vide order dated 16.09.2022 by this Court. There is nothing on record to show that during the period of interim bail he has misused the liberty granted by this Court vide order dated 16.09.2022.

In that view of the matter and the materials so far available in the case diary, this Court is of the view that in the interest of investigation, custodial detention of the accused applicant is unwarranted and, therefore, this Court is inclined to make the interim bail granted vide order dated 16.09.2022 absolute on the same terms and conditions.

The bail application stands disposed of accordingly.

Return the case diary.

JUDGE