

GAHC010121012022



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

**Case No. : Bail Appln./1466/2022**

BORSHAHSRI BURAGOHAIN @ NANG BORSHASRI BURAGOHAIN  
D/O SRI AJIT BURAGOHAIN, R/O VILL- BANANI KATARIKHAM GARAMUR  
GAON, P.O.-KAWOIMARI, P.S.-TEOK, DIST- JORHAT, ASSAM, PIN-785683

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. A DIHINGIA**

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

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**21.07.2022**

Heard Mr. A. Dihingia, learned counsel for the accused petitioner as well as Mr. M. Phukan, learned Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely

**Borshahsri Buragohain @Nang Borshasri Buragohain** has prayed for grant of bail in connection with **Uriamghat P.S. Case No. 20/2022** u/s **10(a)(iv)/13(1)(b)** of the Unlawful Activities (Prevention) Act, 1967.

The case diary, as called for, is placed before the Court.

Mr. A. Dihingia, learned counsel for the accused petitioner, submits that the accused petitioner, who is a student of B.Sc., was in no way involved in the commission of the alleged offences and that her Facebook account was hacked by some unknown person, for which, she did not have any access to the social media platform Facebook. It is also submitted by Mr. Dihingia that the accused petitioner has narrated the entire story in her statement recorded under Section 161 Cr.P.C. and that the police have thoroughly interrogated her. As such, Mr. Dihingia, learned counsel for the accused petitioner, submits that considering the length of detention in judicial custody since 18.05.2022, she may be directed to be released on bail subject to any condition(s).

Mr. M. Phukan, learned Public Prosecutor, submits that the case diary reveals prima facie no sufficient incriminating material against the accused petitioner requiring her continuation of detention any further in the interest of investigation, which is yet to be completed.

The allegation made in the FIR is that on 17.05.2022, the accused petitioner went to the house of her friend at Jaya Pathar Gaon under Uriamghat P.S. and posted written words in her Facebook account in favour of one banned terrorist organization of Assam stating "Swadhin Surjyar Dikhe Akou Ekhuji, Akou Korim Rashtra Droh" (One more step towards independent sun, again, we shall do seditious act." It is further alleged that by that Facebook post, the accused

petitioner had threatened the sovereignty of India and had boosted up the unlawful objective of the said banned organization.

It is noticed that the accused petitioner has been in judicial custody since 18.05.2022, i.e., for 64 days.

I have examined the accused petitioner's case in the light of Article 19(1) (a) [freedom of speech and expression] and 19(2) of the Constitution of India [reasonable restrictions] as well as the definition of "unlawful activity" provided in Section 2(o) of the Unlawful Activities (Prevention) Act, 1967.

A perusal of the contents of the relevant Facebook post, which is in the form of one poetic line, it is revealed that the accused petitioner, who is a college student, expressed her feeling without reference to any organisation.

On scrutiny of the pros and cons of the evidence so far collected by the investigating officer in the case and having regard to the submissions made by the learned counsel for both the sides as stated above as well as the length of detention, this Court is of the opinion that further continuation of detention of the accused petitioner may not be required in the interest of the ongoing investigation.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 25,000/- (Rupees Twenty Five Thousand)** with one surety of like amount to the satisfaction of the learned **S.D.J.M. (S), Dhansiri, Sarupathar** subject to the following conditions-

- i) That the accused/petitioner shall cooperate with the Investigating Officer as and when required;

- ii) That the accused/petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court; and
- iii) That the accused/petitioner shall refrain from committing any offences similar to the one of which she is accused or suspected of commission.

Return the case diary.

This disposes of the bail application.

**JUDGE**

**Comparing Assistant**