

GAHC010145622018



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

**Case No. : Bail Appln. 1512/2018**

1:JALAL UDDIN  
S/O MD. ABDUL GAFFER, VILLAGE SHERALIPUR, PS BADARPUR, DIST.  
KARIMGANJ, ASSAM

VERSUS

1:THE STATE OF ASSAM  
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MR. S K TALUKDAR

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

**BEFORE**  
**HONOURABLE MR. JUSTICE HITESH KUMAR SARMA**

**ORDER**

**Date : 31-07-2018**

This is an application, filed under Section 439 Cr.PC, praying for bail of the accused-petitioner, namely, Md. Jalal Uddin, in connection with Tezpur PS Case No. 790/2017 under Sections 365/379 IPC.

Heard Mr. S.K. Talukdar, learned counsel for the accused-petitioner as well as Mr. B. Sarma, learned Additional Public Prosecutor for the state respondent.

Perused the order dated 20.7.2018, passed by this court. I have also perused the affidavit filed by the accused-petitioner.

On consideration of the materials on record including the affidavit, this court is of the view that the order dated 16.7.2018, granting bail to the accused-petitioner, was not based on the total facts of the case. Section 302 IPC was added against the accused-petitioner on a subsequent date, by the investigating officer, and charge-sheet has already been filed accordingly.

While this court passed the order, dated 16.7.2018, neither in the petition nor during the course of submission, this fact was brought to the notice of the court, resulting in the order aforesaid granting bail to the accused-petitioner.

Now, during the course of interaction with the learned counsel for the accused-petitioner and as agreed to by him, this court proposes to recall the order dated 16.7.2018, granting bail to the accused-petitioner and in view of the fact that charge-sheet has been filed against him, inter-alia, under Section 302 IPC, it is in the domain of the learned trial court to decide whether to hold the trial of the case keeping the accused-petitioner in custody or enlarging him on bail apart from other relevant considerations necessary to dispose of a bail application.

However, if so advised, the accused-petitioner may approach the learned trial court with an appropriate application for bail, which the learned trial court will consider on its own merit, as indicated above.

Therefore, the order dated 16.7.2018 is recalled.

With the above observations and directions, this petition stands disposed of.

Bring this order to the notice of the Registrar (Judicial) of this court.

**JUDGE**

**Comparing Assistant**