
(2011) 11 GAU CK 0069
In the Gauhati High Court
Case No : Bail Application No. 41 of 2011

Sri Abani Mohan Das

APPELLANT

Vs

State of Tripura

RESPONDENT

Date of Decision : 15-11-2011

Acts Referred:

Arms Act, 1959 — Section 25, 26, 27, 28
Criminal Procedure Code, 1973 (CrPC) — Section 167, 439
Explosive Substances Act, 1908 — Section 3, 4, 5, 6
Penal Code, 1860 (IPC) — Section 120B, 121, 121A, 122, 124A

Citation : (2012) CriLJ 3433 : (2012) 1 GLD 733

Hon'ble Judges : Swapan Chandra Das, J

Bench : Single Bench

Judgement

S.C. Das, J.—The petitioner, set the law in motion presenting an application u/s 439 of Cr PC, praying for bail of accused-persons, namely, (1) Sri Ranju Das, (2) Sri Ranjit Das, (3) Sri Satish Paul, (4) Sri Santu Paul (5) Sri Nikhil Das, and (6) Sri Bijoy Das, in connection with Kailashahar P.S. Case No. 98 of 2011, registered under Sections 341 /325/302 read with Section 34 of IPC, pending in the Court of learned Chief Judicial Magistrate, Kailashahar. Heard learned counsel, Mr. A. Pal for the petitioners and learned Public Prosecutor, Mr. D. Sarkar, learned Addl. Public Prosecutor, Mr. P. Bhattacharjee as well as learned Special Public Prosecutor, Mr. R.C Denath for the respondent-State.

A serious question of law, involving wide public importance, regarding applicability of the provisions of the Code of Criminal Procedure (Tripura 8th Amendment) Act, 2009 (herein referred to as the Amendment Act), in the facts and circumstances of this case, has been raised, calling for a decision, and therefore, by an order dated 31.10.2011, Mr. Somik Deb, learned counsel, was requested to assist this Court, on the point, and accordingly, I have heard Mr. Deb at length.

Date was fixed for hearing learned Advocate General, considering the importance

of the issue, but learned Advocate General could not appear due to his indisposition as submitted by learned Addl. P.P., Mr. P. Bhattacharjee, present in the Court.

2. Briefly stated, prosecution case is that one Nakul Malakar lodged an FIR, in writing, addressing the Officer In-Charge, Kailashahar PS. on 29.06.2011, alleging that on 28.06.2011 at about 7/7.30 PM, his nephew Chandan Malakar was returning home from Teliachhera bazar and when he reached near ferryghat on Manu river, on the way, one Ranjit Das and Ranju Das, of their village wrongfully restrained him and assaulted him and also demanded money for purchasing liquor. Chandan informed the matter to him over mobile phone and on getting the information he along with his younger brothers, Khoka, Nikhil, Charitra rushed to the place and asked about the occurrence to Ranjit and Ranju, to which they told that they were making fun with Chandan and further told not to mind and assured that such thing will not re-occur. Thereafter, on good faith, they started towards their house and Ranjit and Ranju also started for their house. When they reached behind Telia School near the house of one Mori Paul at about 8/8.30 PM, they saw a gathering of a large number of people. Flashing charger light, which was in their hand, they found the accused persons, namely, (1) Sri Ranju Das, (2) Ranjit Das, (3) Satish Pal, (4) Sanjay Pal, (5) Subhash Pal, (6) Moti Pal, (7) Jagadish Pal, (8) Jhantu Pal, (9) Pintu Pal, (10) Shantu Pal, (11) Nikhil Das, (12) Gopesh Das, (13) Bijoy Das, who were armed with weapons of offence, and at that time, Ranjit Das yelled saying assault "the sons of dogs". All the accused persons then assaulted them with lathi, rod and wooden file(sized wood), and as a result, they sustained injuries. Khoka Malakar was grievously injured and was lying in a pool of blood. They raised cry and the villagers came out and on seeing the villagers and thinking that Khoka Malakar might have died, the accused persons left. At that time he could not find out his nephew, Chandan. At about 11.00 PM, they took him to RGM Hospital in an unconscious condition and the doctor admitted him. In the early hours of the morning, seeing the critical condition, doctor referred Khoka Malakar to AGMC hospital but they took him to Silchar Medical College, as it was easier to them. On 29.06.2011, at about 11/11.30 AM, when they reached Silchar Medical College, doctor examined him and declared him dead. They returned to Kailashahar with the dead body with the same ambulance and thereafter lodged the FIR. Since they remained busy with the treatment of the injured, there was delay in lodging the FIR. The Officer In-Charge, Kailashahar P.S., accordingly, registered the case and Sri Badal Dutta, Sub-Inspector of Police was entrusted with the charge of investigation.

3. Case Diary is produced by the learned P.P. and I have perused it.

4. It is submitted by learned P.P. that there are sufficient evidence against the accused-petitioners, showing their involvement, in the commission of crime, punishable u/s 302 read with Section 34 of IPC and that investigation is at the final stage and waiting for submission of charge sheet. It is further submitted that in view of the provisions of the Amendment Act the petitioners cannot be

released on bail before 180 days of their detention in the custody.

5. Per contra, learned counsel, Mr. Pal appearing for the petitioners has submitted that the accused-petitioners are already in custody for more than 90 days, as prescribed u/s 167 of Cr PC and the case cannot be treated as one relating to extremists violence, and therefore, in view of the law, laid down by this Court, in the case of Dhananjay Bhowmik Vs. State of Tripura, , the provisions of the Amendment Act, shall not apply in the case of the accused-petitioners. Learned counsel further submitted that the objects and reasons of the Amendment Act, from the very first Amendment to the last Amendment i.e. the 8th Amendment, was made only with a view to contain the extremists related offences and the language of the objects and reasons makes it clear that it was not intended to apply to all cases in general, which has already been settled by this Court in the case of Dhananjay Bhowmik (supra). It is further submitted that the same language has been used from the 1st Amendment Act to 8th Amendment Act and there was no change in the language and only there was some change in the objects and reasons. But the memo, of the Government to Government of India and the letters of the Home Department, placed before the Council of Ministers, makes it clear that the intention behind the 8th Amendment was also with a view to contain extremists related offence and not to apply it in general.

6. Learned amicus curiae, Mr. Somik Deb, on the other hand, has submitted that the objects and reasons of the 8th Amendment was completely different to that of the objects and reasons of the 4th Amendment Act of 1998. The decision in the case of Dhananjay Bhowmik (supra) was passed by this Court, considering the objects and reasons of the 1998 Amendment Act and the present objects and reasons, since are completely different and the amendment made on different context, though the language of the Amendment Act was same, the ratio of 1998 decision in Dhananjay Bhowmik (supra), cannot be applied in this case. Learned counsel further submitted that the previous objects and reason of 1998 amendment was clearly made for dealing with the extremists related offences but the present amendment has been made for dealing with the notorious and hardened criminals and the present case, in hand, therefore, squarely comes under the purview of the amended provision and they cannot be released before 180 days.

7. For ready reference and for fair appreciation of the provisions of the Amendment Act, it is reproduced here, as under :

THE CODE OF CRIMINAL PROCEDURE (TRIPURA EIGHTH AMENDMENT) ACT, 2009.

AN ACT

Further to amend the Code of Criminal Procedure, 1973 in its application to the State of Tripura.

Be it enacted by the Tripura Legislative Assembly in the sixtieth year of Republic of India as follows:-

1.

(1) This Act may be called the Code of Criminal Procedure(Tripura Eighth Amendment) Act, 2009.

(2) It extends to the whole of Tripura.

(3) It shall come into force at once and shall remain in force for three years from the date of commencement.

Provided that the State Government may, from time to time, by notification in the Official Gazette, extend the period, as aforesaid, for such period not extending one year at a time as may be specified in the notification, so however that the total period of such extension(after the expiry of first three years) shall not exceed two years and wherein such notification is issued, a copy thereof shall be laid, as soon as may be, before the Legislative Assembly of Tripura.

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the Principal Act), in Section 167, in its application to the State of Tripura, in paragraph (a) of the proviso to sub-section (2).-

(a) for the words "ninety days" wherever they occur, the words "one hundred eighty days" shall be substituted;

(b) for the words "sixty days" wherever they occur, the words "one hundred twenty days" shall be substituted.

3. In the Principal Act, after Section 439, the following Section shall be inserted, namely.

439-A. Power to grant bail.--Notwithstanding anything contained in this Code, no person--

(a) who, being accused of or suspected of committing an offence under Sections 120B, 121, 121A, 122, 124A, 153A, 302, 303, 304, 307, 326, 333, 364, 365, 366, 366A, 366B, 367, 368, 376, 386, 387, 392, 394, 395, 396, 397, 399, 412, 436, 449 and 450 of the Indian Penal Code, 1860 (No. 45 of 1860) and Sections 25, 26, 27, and 28 of the Arms Act, 1959 (54 of 1959) and Sections 3, 4, 5 and 6 of the Explosive Substance Act, 1908 (Act No. VI of 1908) is arrested or appears or is brought before a Court; or

(b) who, having any reason to believe that he may be arrested on an accusation or committing an offence as specified in clause(a) has applied to the High Court or Court of Sessions for a direction for his release on bail in the event of his arrest.

shall be released on bail or, as the case may be, directed to be released on bail except on one or more of the following grounds, namely:--

(i) that the Court including the High Court or the Court of Sessions for reasons to be recorded in writing is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);

(ii) that such persons is under the age of sixteen years or a woman or a sick or infirm persons;

(iii) that the Court including the High Court or Court of Sessions, for reasons to be recorded in writing, is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail.

8. Since the statement of objects and reasons for the above Amendment Act has been referred by both sides, let me quote herein the relevant paragraphs 3 and 4 for fair appreciation, which run as follows :

3. If the investigation cannot be completed within the specified period, as aforesaid, release of accused person on bail is mandatory. Investigation of cases where notorious criminals who are likely to abscond are involved cannot be completed in certain cases within the period mentioned above in the present situation prevailing in the State.

4. Easy access to bail of hardened criminals created serious hurdles in closing within time. After release they interfere in the investigation and intimidate the witnesses.

9. On perusal of the case diary, I find that there are evidences on record against the accused-petitioners to show, prima facie, that they are involved in the commission of the crime, punishable u/s 302 of IPC, which (sic) covered by the provisions of the Amendment Act as reproduced above. According to learned P.P. investigation is almost complete, but that does not confer a right of the accused-persons to get bail.

10. In the case of Dhananjay Bhowmik (supra) this Court considered the statement of objects and reasons of the Amendment Act, 1998 and that statement of objects and reasons, also for fair appreciation, is reproduced as follows :

2. In the meanwhile, the extremist activities which necessitated the Code of Criminal Procedure (Tripura Third Amendment) Act, 1992 have again made their appearance and extremist outfits like ATTF and NLFT have become active and they have been declared unlawful. The State has experienced a number of incidents of ambushes, kidnapping with a view to extort ransom or to commit murder/grievous hurt, extortion and attack on peace-living people, murder arson and looting, rape etc. and recent months have seen a spurt in such extremist activities. It has been noticed that in a number of such cases, the extremists who were earlier arrested by police and released by Courts on bail have again been involved. It is further noticed that in many cases these extremist elements have sanctuaries in Bangladesh to which they escape after committing crimes or when they are released on bail by the Courts. With a view to firmly and effectively deal

with growing activities of dangerous anti-social and extremist elements like ATTF and NLFT who have been indulging in such violent activities, the State Government has been feeling the necessity of making a suitable legislative measure on the lines of the Code of Criminal Procedure (Tripura Third Amendment) Act, 1992.

11. This Court in the case of Dhananjay Bhowmik (*supra*), considering the submission of learned counsel of both sides including the submission of the then learned Advocate General, held thus :

11. This being the question of law, the learned Advocate General, Tripura has fairly submits that the intention of the legislature necessitating the amendment of the Act has been disclosed in the statement of Objects and Reasons and this Court would interpret the amendment in the context of statement of Objects and Reasons.

12. In view of the aforesaid discussion and reasons I am of the opinion that the amendment of Section 439 AND Section 167as amended by the Code of Criminal Procedure(Tripura 4th Amendment Act, 1998) is confined to the extremist related offence or an offence committed by the extremists. So far the other general case of heinous crime committed in course of general nature are excluded from the purview of the Amendment Act. This would mean that offence not related to the extremist activities or not committed in course of extremist activities shall be governed by the Central Act.

13. In the instant case, the offence charged against the accused as u/s 302, IPC for committing alleged murder of general nature and it has no connection with the extremist activities or not committed in course of extremist activities. Therefore, it is purely outside the purview of the amended Act brought out by the Tripura 4th Amendment Act, 1998.

14. This leaves to be decided as to whether the accused would be entitled to go on bail under Sub-section (2)(a)(1) of Section 167 of the Code. The provision of sub-section (2)(a)(1) of Section 167 is mandatory.

12. Section 167 of Cr PC is to be applied generally in all cases regarding the period of detention during investigation. The provision of the Amendment Act is departure from the law applicable in general. When the case of Dhananjay Bhowmik (*supra*) was considered by this Court, the Tripura 4th Amendment Act, 1998 was in force. The language of the Eighth Amendment Act is the reproduction of the same language used in the earlier Act, including that of the Fourth Amendment Act. This Court interpreted the applicability of the provision of the Fourth Amendment Act taking into consideration the objects and reasons behind the legislation. At the relevant time of the Fourth Amendment Act, the consideration was to contain the extremist activities and to detain the offenders involved in extremist activities. The objects and reasons for the present Eighth Amendment Act is to contain the notorious and hardened criminals. The simple change in the nomenclature of the criminals does not make the applicability of

the law different to that of the interpretation made by this Court. The statement of objects and reasons prepared by the Government, for consideration of the bill in the legislature, cannot be said to be a part of the enactment. It is made for the purpose of consideration of the bill by the legislature.

13. Let us first see how far the statement of objects and reasons can be considered by the Court of law while applying the provisions of a particular enactment. In the case of *Kuldip Nayar Vs. Union of India (UOI) and Others*, , the Hon''ble Apex Court has held :--

As regards the criticism that the reasons given in the counter affidavit of the Union of India are distinct from those set out in the statement of Object and Reasons of the bill that became the impugned law, the statement of Objects and Reasons of a proposed legislation is not the compendium of all possible reasons or justification. In any case there is no contradiction in the stand taken by the Union of India in this proceedings in relation to the statement of objects and reasons of the impugned amendment.

In the case of *Utkal Contractors and Joinery Pvt. Ltd. and Others Vs. State of Orissa and Others*, , the Apex Court has held :

Construction restricting scope of provision-wide language must be construed contextually and restricted in consonance with the objects and reasons and the scheme of the Act.

In *State of Punjab (Now Haryana) and Others Vs. Amar Singh and Another*, , the Apex Court has held :

It is useful to read the objects and reasons relating to the clause of a bill to illumine the idea of the law, not to control its amplitude.

In the case of *B. Banerjee Vs. Smt. Anita Pan*, , the Apex Court has held :

Court can refer to legislative proceedings and common knowledge and other relevant factors including the statement of objects and reasons.

In the case of *S.C. Prashar, Income Tax Officer, Market Ward, Bombay and Another Vs. Vasantsen Dwarkadas and Others*, , the Hon''ble Apex Court has held :

The statement of Objects and Reasons for introducing a particular piece of legislation cannot be used for interpreting the legislation if the words used therein are clear enough. But the statement can be referred to for the purposes of ascertaining the circumstances which led to the legislation in order to find out what was the mischief which the legislation aimed at.

14. The Fourth Amendment Act of 1998 was aimed at to contain the extremists related offences, particularly, the offences specified in clause (a) of Section 439(A) of the said Amendment Act. The present Eighth Amendment Act has been made to contain the notorious criminals and hardened criminals. The departure

from the application of general law as prescribed in Sections 167 and 439 of Cr PC has been made only to contain the extremist related offences or the offences committed by the notorious and hardened criminals, as the case may be. We may safely put the objects and reasons of the Fourth Amendment Act and the Eighth Amendment Act in the same analogy. The interpretation made by this Court regarding the applicability of the provisions of the Amendment Act was in force when the Eight Amendment was made.

Let us refer here the interpretation made by the House of Lords in the case of *Barras v. Aberdeen Steam Thrawling & Fishing Co. Ltd.*, reported in the All England Law Reports Reprint: 1933 33, which reads as follows :

So Held by LORDS BUCKMASTER, WARRINGTON, RUSSELL and MACMILLAN, LORD BLANESBURGH dissentient.

Where once certain words in an Act of Parliament have received a judicial construction in one of the superior Courts, and the legislature has repeated them without any alteration in a subsequent statute, the legislature must be taken to have used them according to the meaning which a Court of competent jurisdiction has given to them.

Dictum of JAMES, L.J., in *Re Cathcart, Ex parte Campbell* (2) (1870), 5 Ch. App. 706, approved.

Per LORD MACMILLAN : This rule of interpretation affords only a valuable presumption as to the meaning of the language employed in a statute. Where a judicial interpretation is well settled and well recognized the rule ought, doubtless, to receive effect, but it must be a question of circumstances whether Parliament is to be presumed to have tacitly given statutory authority, say, to a single judgment of a competent Court so as to render that judgment, however obviously wrong, unexaminable in this House.

Justice G.P. Singh in his book "Principles of Statutory Interpretation" (9th edition) at page 258, while discussing statute in pari materia has observed thus :

As already noticed, use of same words in similar connection in a later statute gives rise to a presumption that they are intended to convey the same meaning as in the earlier statute. On the same logic when words in an earlier statute have received an authoritative exposition by a superior Courts, use of same words in similar context in a later Act will give rise to a presumption that Parliament intends that the same interpretation should also be followed for construction of those words in the later statute. The rule as stated by GRIFFITH, C.J. and approved by the Privy Council (LORD HALSBURY) is :

When a particular form of legislative enactment, which has received authoritative interpretation whether by judicial decision or by a long course of practice, is adopted in the framing of a later statute, it is a sound rule of construction to hold that the words so adopted were intended by the Legislature to bear the meaning which has been so put upon them.

The Apex Court in the case of F. S. Gandhi (Dead) by LRs. Vs. Commissioner of Wealth tax, Allahabad, , while dealing on the issue of interpretation of statutes has held :

Interpretation of statutes-Judicial interpretation-Approval of-where Courts interpret an expression in a provision in a particular manner and the legislature subsequently amends the provisions but repeats the same expression in the amended provision, the legislature must be taken to have used the expression to bear the meaning which had been put upon it earlier by the Court.

15. In course of hearing, learned counsel, Mr. A. Pal appearing for the petitioner has submitted a copy of the letter vide No. F.8(5)-Law/Leg-I/2009-400 dated 31.03.2009 (supplying copy to the other side) and has submitted that the Code of Criminal Procedure (Tripura 8th Amendment) Bill, 2009, since was repugnant to some of the provisions of the Criminal Procedure Code, it was sent for Presidential consent with a letter to the Secretary, Government of India, Ministry of Home Affairs, assigning reasons seeking Presidential assent to the Bill. Referring to Para-2 of the said letter learned counsel has submitted that State Government made definite assertion in that letter seeking Presidential assent to the Bill referring to the extremist activities in Tripura and also referring to the reasons for which 7th Amendment Act was assented to by the President. In support of his contention, learned counsel also refers the case law of Kaiser-I-Hind Pvt. Ltd. and Others Vs. National Textile Corporation (Maharashtra North) Ltd. and Others, and has submitted that Presidential assent was obtained assigning the reasons that to contain inter alia the extremist activities, amendment was necessary for the State of Tripura and considering that letter Presidential assent was given to the Bill and, hence, the respondent cannot take a plea that the 8th Amendment Act was not to contain offences relating to extremist activities alone.

Para-2 of the letter dated 31.03.2009 runs as follows :

2. With a view to containing extremists' activities in Tripura involving attacks on peace-loving people, arson and looting, ambushes and other violent activities, the Code of Criminal Procedure(Tripura 7th Amendment) Act, 2003 was enacted with the assent of the President, communicated vide Government of India, Ministry of Home Affairs' letter No. 17/51/2003-Judl. & PP dated 9th January, 2004 addressed to the L.R & Secretary, Law, Government of Tripura. The Presidential assent was obtained on 06.01.2004 and the said law expired on 5th January, 2009 after initial period of three years and subsequent extension of two years. The amendment aimed at extending the maximum period of detention of accused persons during investigation u/s 167 and inserting a new provision - Section 439A to put certain restrictions on the powers of the Courts to grant bail. As the situation leading to the aforesaid enactment continued to prevail even after expiry of five years, the State Government proposed to continue the same amendments by promulgating the instant Amendment on the same line.

Learned counsel has drawn my attention to paragraphs-14, 16 and 20 of the judgment reported in Kaiser-I-Hind Pvt. Ltd. and Others Vs. National Textile Corporation (Maharashtra North) Ltd. and Others, and has submitted that Presidential assent was obtained stating the reasons of the extremist activities and now a contrary submission cannot be made by the respondent. On going through the judgment I find that the Hon''ble Apex Court has held :

.....As discussed above before grant of the assent, consideration of the reasons for having such law is necessary and the consideration would mean consideration of the proposal made by the State for the law enacted despite it being repugnant to the earlier law made by the Parliament on the same subject.

.....If there is no proposal, no question of "consideration" or "assent" arises. For finding out whether "assent" given by the President is restricted or unrestricted, the letter written or the proposal made by the State Government for obtaining "assent" is required to be looked into.

Learned Public Prosecutors could not controvert the above submission made by the learned counsel for the petitioner.

16. The words, "notorious criminals and hardened criminals" as referred to in the objects and reasons of the Eight Amendment Act of 2009, have not been defined in the Amendment Act. Learned amicus curiae has submitted that as there is no definition of those words made in the Amendment Act, it should be presumed that whoever, committing the crime, punishable under any or more of the sections mentioned in clause(a) of Section 439(A), shall be deemed to be notorious criminals and hardened criminals. On the other hand, learned counsel, Mr. Pal has submitted that it will be totally contrary to the settled law, if such an interpretation is given to those words where the law itself is silent. Commission of a crime in normal circumstances, and commission of such crime by a hardened and notorious criminal, stands completely a different context, and, therefore, in view of the decision of this Court, in the Dhananjay Bhownik (supra), the provisions of the Amendment Act, shall be applied in case notorious and hardened criminals involved in any of the offences, prescribed in clause(a) of Section 439(A).

In the case of Harijana Thirupala and Others Vs. Public Prosecutor, High Court of A.P., Hyderabad, , Hon''ble Apex Court, while considering the prosecution evidence, has thrown light in respect of notorious criminals and held:

As to the non-examination of independent witnesses, though several independent persons had witnessed the incident, the High Court accepts the feeble explanation given by PW 7, the investigating officer that none of them come forward to give evidence because of the fear of the accused. Nothing has come in evidence that the appellants were notorious criminals or they were the terror in the village. The trial Court took the view that non-examination of the independent witnesses seriously impaired the credibility of the prosecution case.

In Smt. Selvi and Others Vs. State of Karnataka, , the Hon''ble Apex Court, while considering the issue of right against self incrimination and right to personal liberty-exceptions if can be created by Court in public interest, has held :

Constitutional values, which are meant for whole of India and for future generations, have to be preserved irrespective of individual cases wherein some hardened criminals who have no regard for societal values, may be benefited by Court ruling in this case.

Regarding hardened and notorious criminals, we may also draw some light from the case of D.K. Basu Vs. State of West Bengal, .

17. In my considered opinion, having regard to the facts and circumstances and the legal position, explained above, the Court shall not act mechanically applying the provisions of the Amendment Act, only seeing the particular offending section in the cases but shall consider the facts and circumstances of each case in its entirety as to whether the case squarely comes under the purview of the provisions of the Amendment Act in the special circumstances that the offenders of the particular case may be termed as notorious and/or hardened criminals or not Commission of offence in the normal circumstances, punishable under any of the provisions prescribed in clause (a) of Section 439(A) of Cr PC and commission of such offence by notorious and hardened criminals or the extremists is bound to be treated in different context. Crimes committed by the organized criminals, mafia groups, economic offenders and the crimes against women at large, cannot be classified in the same scale with that of crimes committed in normal circumstances by the ordinary criminals. Therefore, it would be totally unwise to put all the offenders in the same scale and to take an easy course of applying the provisions of Amendment Act generally in all cases. The Courts are to act with all its conscience while applying the provisions of law. The legislatures, while making this special provisions, definitely kept in mind the interpretation made by this Court in the case of Dhananjay Bhownik (supra) and made the Amendment Act with a view to contain the offences committed by the hardened and notorious criminals.

18. In the present case, admittedly there is no evidence that the accused-persons may be categorised to any group of organized criminals or that they are hardened and notorious criminals and the people, at large, are afraid of them, and, therefore, in their case, in my considered opinion, the provisions of the Amendment Act, may not be applied. They are already in custody for about 124 days and charge sheet could not be filed by the investigating agency till now, and therefore, they may get bail in view of the provisions of Section 167 of Cr PC

19. Accordingly, it is hereby ordered that the accused-petitioners, namely, (1) Sri Ranju Das, (2) Sri Ranjit Das, (3) Sri Satish Paul, (4) Sri Santu Paul, (5) Sri Nikhil Das, and (6) Sri Bijoy Das, be released on bail on their execution of bail bond of Rs.25,000/-(rupees twenty five thousand) each with one surety of like amount to the satisfaction of the learned CJM, Kailashahar on condition that they

should continue to appear before the I.O. as and when required till the charge sheet is filed and that they shall not interfere with the investigation and terrorize or influence the witnesses in any manner. Bail application, accordingly, stands disposed of.