

**IN THE ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI.**

M.A. 16 of 2017
(Aoo MA 1114/16 in TA-01/17)

**Ex-Sepoy Raj Kumar Yadav
13 Kumaon, C/o 99 APO
(Along, Arunachal Pradesh)
(Smt. Bachan Yadav, thr LRs)**

.....Applicant.
By legal practitioners
for Applicant.
**Maj K Ramesh (Retd)
Ms Archana Ramesh**

-Versus-

- 1. Union of India
Through Secretary,
Ministry of Defence,
New Delhi-110011.**
- 2. The Chief of Army Staff,
Through Adjutant General (ADGDV)
Army Headquarters, New Delhi-110011.**
- 3. The Officer-in-Charge,
Kumaon Regiment Records,
(Ranikhet, Uttrakhand).**

.....Respondents
By legal practitioners
for Respondents.
Brig N.Deka (Retd), CGSC.

PRESENT

**HON`BLE MR. JUSTICE B.P.KATAKEY, MEMBER (J)
HON`BLE VICE ADMIRAL MP MURALIDHARAN, MEMBER (A)**

ORDER
24 Mar. 2017

(By B.P.Katakey,J.)

The applicant has filed this application uder Section 15 of the AFT Act praying for grant of bail.

2. Heard Ms Archana Ramesh learned Counsel appearing for the applicant and Brig N.Deka, learned Central Govt. Standing Counsel assisted by Col Anand, OIC, Legal Cell, Guwahati appearing for the respondents.

3. Learned Counsel appearing for the applicant submits that having regard to the findings and the sentence imposed by the DCM and also the fact that the applicant is in custody for more than 7 months, he may be granted the privilege of bail on condition that may be imposed by this Tribunal.

4. Learned Counsel for the respondents opposing the prayer for bail has submitted that having regard to the findings recorded by the DCM, the privilege of bail may not be granted to the applicant, more so, when any of the records are not made available to him.

5. It appears from the record that challenging the finding and sentence awarded by the DCM, the applicant filed O.A.(A) 1486/2016 along with an application seeking bail, being M.A. 1114/2016 before the Principal Bench of this Tribunal. The Principal Bench vide order dated 17.11.2016 issued notice on the prayer for bail. On that day the respondents were represented by their learned Counsel. It also appears that while the aforesaid proceeding was pending before the Principal Bench, the respondents have filed their counter against the prayer for bail. The applicant has also filed rejoinder. The records further reveals that pursuant to the order dated 6.3.2017 passed by the Principal Bench in presence of both the parties, the records of the aforesaid OA and MA are transferred to this Regional Bench and accordingly these are registered and re-numbered as T.A. 01 of 2017 and M.A. No. 16 of 2017 respectively.

6. The applicant has been convicted by District Court Martial vide order dated 12th August, 2016 and sentenced him to undergo imprisonment for one year and also dismissal from service. The applicant is in custody since 12th August, 2016, i.e. for more than 7 (seven) months.

7. Having regard to the findings and the sentence imposed by the DCM and also upon hearing the learned Counsel for the parties, apart from the fact that the applicant is in custody for more than 7 months and there is no regular Bench available in Guwahati Regional Bench due to non-appointment of the Hon`ble Administrative Member till date, we are of the considered opinion that the applicant needs to be granted the privilege of bail.

8. In view of the above , the applicant is directed to be released on bail for Rs. 20,000/- (Twenty thousand) with one local surety of the like amount to the satisfaction of the Jail Superintendent, Ambala. On furnishing such bail bond the applicant shall be released from the jail custody.

9. The applicant shall appear before this Tribunal as and when the aforesaid T.A. is fixed/listed, failing which necessary order for cancellation of the bail may be passed.

10. MA. accordingly stands allowed.

11. The Registry shall communicate this order to the Jail Superintendent, Ambala.

12. Order dasti.

MEMBER(A)

MEMBER(J)

Nath.