

GAHC010000452023



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

Case No. : Bail Appln./33/2023

FIRDUS ALI
S/O LT. MAJIBAR RAHMA, R/O VILL-BOLAIPATHAR NEAR L.P. SCHOOL,
P.S.-KALGASIA, DIST-BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

17.01.2023.

Heard Ms. D. Brahma, learned counsel for the accused. Also heard Mr. BB Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure,

is preferred by accused, namely, Firdus Ali, who has been languishing in jail hazoot since 30.11.2022, in connection with the Hatigaon P.S. Case No.461/2022, under sections 420/379 of the IPC, with added Section 66 of the IT Act, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Pranjit Das on 05.10.2022, to the effect that on 04.10.2022, at about 7:15 P.M., while he was withdrawing money in SBI ATM, situated at Kerakuchi, then someone has exchanged his ATM Card and misappropriated money from his account.

4. Ms. Brahma, learned counsel for the accused submits that the accused is behind the bar for last 49 days and that he is innocent and no way involved with the offence alleged in the FIR and in connection with the Hatigaon P.S. Case No.462/2022, under section 379 of the IPC, with added Section 66 of the IT Act, this Court was pleased to grant pre-arrest bail to the accused vide order dated 30.11.2022, in AB No.3325/2022 and that, he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. Mr. BB Gogoi, learned Addl. P.P., Assam appearing for the State respondent has produced the case diary before this Court and submits that the main culprit, namely, Jiaul Hoque has already been arrested, who had transferred a sum of Rs.2,16,000/- to the account of the present petitioner, which is yet to be recovered and therefore, Mr. Gogoi has contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and

also perused the Case Diary with the assistance of Mr. Gogoi, learned Addl. P.P., Assam.

7. It is not in dispute that the accused was arrested on 30.11.2022 and since then, he has been languishing in the jail jazoot. Further it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case and the main culprits have already been arrested here in this case.

8. In view of the period of detention of 49 days in jail hazoot, his further custodial detention, in the interest of investigation seems to be not warranted. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- (Rupees fifty thousand) only, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) at Guwahati, the accused person, named above, shall be enlarged on bail, in connection with the Hatigaon P.S. Case No.461/2022.

9. In terms of above, this bail application stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant