

GAHC010037272023



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

Case No. : Bail Appln./549/2023

HANIFUR RAHMAN AND 3 ORS.
S/O LATE AJIJUR RAHMAN
R/O VILL- SONAPUR PATHAR

P.S. SONAPUR
DIST. KAMRUP (METRO)
ASSAM

2: AMINUL HOQUE @ AMIN
S/O AHMED ALI
R/O VILL- MADHYA BHAKUAMARI
P.S. AND DIST. BARPETA
ASSAM

3: LOTFAR RAHMAN @ ROCKY
S/O ABDUL KALAM
R/O VILL- KOYAKUCHI
BHAKUAMARI
P.S. AND DIST. BARPETA
ASSAM

4: SAHIDUL ISLAM
S/O SUKUR ALI
R/O VILL- KOYAKUCHI

BHAKUAMARI
P.S. AND DIST. BARPETA
ASSAM
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. N J DUTTA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

09.03.2023

Heard Mr. N.J. Dutta, learned counsel for the accused petitioners. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **(1) Hanifur Rahman (2) Aminul Hoque @Amin (3) Lotfar Rahman @Rocky and (4) Sahidul Islam** have prayed for grant of bail in connection with **Hatigaon P.S. Case No. 397/2022** u/ss **406/420/379** of the IPC read with Section **66(C)** of the IT Act.

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

As per the F.I.R., dated 18.08.2022 lodged by one Puspa Gogoi Rajkhowa, on that day at about 11 a.m., while she was returning after withdrawing money from the SBI ATM near Ghoramara Kali Mandir, five unknown persons who were waiting there called her saying that something had happened with the ATM monitor and asked for her ATM card. Thereafter, they fraudulently gave her another ATM card in the name of one Keshab Deka. After reaching home, the informant found that an amount of Rs.1,10,000/- had been withdrawn as well as transferred from her account.

Mr. N.J. Dutta, learned counsel for the accused petitioners, submits that altogether 17 numbers of cases have been registered against the accused petitioners and that they have been enlarged on bail in other connected cases.

Mr. B. Sarma, learned Addl. Public Prosecutor, submits that the case diary shows prima facie incriminating material against the accused petitioners and therefore, they may not be enlarged on bail.

Perusal of the case diary shows that no recovery has been made so far in the case. Although there is a note of the investigating officer dated 05.09.2022 making requisition to the Branch Manager, SBI Hatigaon Branch for the CCTV footage in connection with the incident the same has not been received till date. On the other hand, the accused petitioners have been languishing in judicial custody for last 28 days since they were shown arrested on 09.02.2023. The investigation is yet to be completed. This Court is of the opinion that further continuation of detention of the accused petitioners in the interest of the ongoing investigation may not be required.

Accordingly, it is provided that each of the accused petitioners named above shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand) each** with one surety of like amount to the satisfaction of the learned **C.J.M., Kamrup(M)**, subject to the following conditions-

- i) That the accused/petitioners shall cooperate with the Investigating Officer as and when required;
- ii) That the accused/petitioners 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/petitioners shall refrain from committing any similar offences in future of which they are accused or suspected of commission.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant