GAHC010082562023

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

**Case No. : Bail Appln./1392/2023**

MOFAJJEL ALI
S/O LATE ADBUL GAFUR
VILL- DUMERGURI PT.III
P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN-781316

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

**Advocate for the Petitioner** : MR. A ROSHID

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

**BEFORE**
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**02.05.2023**

Heard Mr. A. Roshid, learned counsel appearing for the accused petitioner as well as Mr. M.P. Goswami, learned Addl. Public Prosecutor, Assam appearing for the state respondent.

By this second petition under Section 439 Cr.P.C., the accused-petitioner, namely **Mofajjel Ali** has prayed for grant of bail in connection with **Abhayapuri P.S. Case No. 112/2023** under Section **399** of the IPC read with Section **3(2)(e)** of the Prevention of Damage to Public Property Act, 1984.

The earlier bail application of the accused petitioner being Bail Appln. No. 950/2023 was rejected by this Court vide order, dated 31.03.2023.

The case diary is placed before the Court.

The F.I.R. reveals the allegation that on 28.02.2023 at about 12 a.m., an attempt was made by some dacoit to vandalize an SBI ATM machine bearing ID No. DFB001684074 by cutting/damaging the lock of shuttering door of the ATM.

While rejecting the earlier bail application of the accused petitioner, this Court passed the following order (relevant portion)-

> "*A perusal of the case diary reveals that damage was caused to the SBI ATM at Tulungia at midnight. The suspected instruments used in attempt to steal money from the ATM such as Oxygen cylinder and gas cutter were recovered and seized from nearby location. Those were belonged to one co-accused person, who has a garage. The investigation is at preliminary stage. Therefore, this Court is of the opinion that if the liberty of bail is granted to the accused, there is possibility of hampering a fair and speedy investigation into the incident.*
>
> *Therefore, the bail application of the accused petitioner stands rejected.*
>
> *Return the case diary.*
>
> *The bail application stands disposed of."*

It is noticed that the accused petitioner has been in judicial custody since 03.03.2023, that is, for 61 days.

Perusal of the case diary shows prima facie incriminating material against the accused petitioner. However, considering the length of detention only, this

Court is of the opinion that further continuation of detention of the accused petitioner may not be required in the interest of the ongoing investigation.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand)** with one surety of like amount to the satisfaction of the learned **S.D.J.M. (M), North Salmara, Abhayapuri.**

The above bail order shall, however, be subject to the following conditions-

i) That the accused/petitioner shall co-operate in investigation as and when required;

ii) That the accused/petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses so as to dissuade them from disclosing such facts to the Police Officer or the Court; and

iii) That the accused/petitioner shall refrain from committing any offences similar to the one of which he is accused or suspected of commission.

Return the case diary.

This disposes of the bail application.

**JUDGE**

**Comparing Assistant**