

GAHC010161312023



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

Case No. : Bail Appln./2629/2023

RUBUL AHMED @ RUBUL SARKAR AND ANR
S/O IBRAHIM ALI
R/O HARIRCHAR PT.I
P.S. MERERCHAR
DIST. BONGAIGAON, ASSAM

2: ABU SHAMA
S/O ASHIR UDDIN
R/O HARIRCHAR PT.I
P.S. MERERCHAR
DIST. BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.08.2023

Heard Mr. A. Ahmed, learned counsel for the accused. Also heard Mr. R.J. Baruah,

learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by the accused, namely, Rubul Ahmed @ Rubul Sarkar and Abu Sharma, who have been languishing in jail hazot since 14.07.2023 in connection with Mererchar P.S. Case No.48/2023 under Section 420/468/471/409/34 IPC.

3. It is to be noted here that Mererchar P.S. Case No.48/2023 under Section 420/468/471/409/34 IPC was registered on the basis of an F.I.R. lodged by one Rupchan Ali on 12.07.2023. The essence of allegation against the accused persons is that they have hatched a conspiracy along with one Jahangir Alam and opened one CSP centre at Herirchar Bazar and opened 200 bank accounts against the Adhaar card of the students as well as men and women and secretly withdrawn huge amount from the bank through the aforesaid accounts without the knowledge of the account holders and thereby cheated and misappropriated the Government money.

4. Mr. Ahmed, learned counsel for the accused persons submits that both the accused were arrested on 14.07.2023 and since then they are languishing in jail hazot for last 39 days. Mr. Ahmed further submits that Section 409 IPC has not been attracted against the present accused persons and that the main allegation is against accused Jahangir Alam and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the case diary furnishes material to show complicity of the accused persons with the offence alleged in the FIR and therefore, Mr. Baruah raised objection in enlarging the accused persons on bail.

6. Having heard the submission 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. R.J. Baruah, learned Additional Public Prosecutor, Assam.

7. It is not in dispute that both the accused are behind the bar for last 39 days.

Further it appears that the I.O. has achieved substantial progress in investigation. In view of the progress of investigation and the materials collected so far against the present accused persons, their further detention seems to be not warranted in the interest of investigation. Accordingly, this Court is inclined to allow this bail application. It is provided that by furnishing a bail bond of ₹ 50,000/- each, with one surety of like amount to the satisfaction of the learned SDJM(M), North Salmara, Abhayapuri, both the accused be enlarged on bail.

8. In terms of above, this bail application stands disposed of.
9. CD be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant