

GAHC010175232023



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

Case No. : Bail Appln./2810/2023

DILUAR HUSSAIN
S/O MD. MUSLAM UDDIN
VILL- SAPKATI
P.O. DEWAGURI,
PS. LAHORIGHAT
DIST. MORIGAON, ASSAM
PIN-782127

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

31.08.2023

Heard Mr. M. Dutta, learned counsel appearing for the accused petitioner as well as Mr. B.B. Gogoi, learned Addl. P.P., Assam appearing for the State

respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Diluar Hussain** has prayed for grant of bail in connection with **Mikirbheta P.S. Case No.90/2023** under Sections **120B/406/420/468** of the IPC read with Sections **66(C)/66(D)** of the I.T. Act.

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

Mr. M. Dutta, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in judicial custody despite being absolutely innocent based on the implicating statements of the co-accused persons. It has been submitted that the accused had a Customer Service Point of the Central Bank, which was closed on 16.07.2022. Therefore, Mr. Dutta submits, the accused was not even remotely concerned in banking business since then and co-accused persons are already released on bail.

Per contra, Mr. B.B. Gogoi, learned Additional Public Prosecutor, submits that the case diary reveals that 866 nos. of ATM cards along with other incriminating documents were recovered and seized from the dwelling house of the accused petitioner. Therefore, Mr. Gogoi submits that in the backdrop of evidence so far collected, the bail application of the accused petitioner may not be accepted.

The case relates to recovery and seizure of 384 nos. of ATM cards, 5 nos. of mobile handset and 2 nos. of calculators from a car bearing registration No. AS 01 EY 7385 where four nos. of suspected persons were travelling. During interrogation it was learnt that the apprehended accused persons had collected those ATM cards in the name of various local persons and from some CSP owners with ulterior motive to withdraw money sanctioned under various

government schemes.

It is noticed that the accused petitioner has been in judicial custody since 14.07.2023 that is, for 49 days.

A perusal of the case diary, *inter alia*, reveals as stated by the learned Addl. Public Prosecutor, as many as 866 nos. of ATM cards along with incriminating documents were seized during search by police in the dwelling house of the accused petitioner. It is further revealed that the accused opened several fake passbooks using fake documents in various nationalized banks like SBI, CBI, UBI, PNB etc. through which he allegedly misappropriated money of various governments schemes and some ATM cards and passbooks are yet to be recovered. It is also revealed that those seized ATM and passbook holders are yet to be verified. Thus, the present accused is the prime accused in this case. The investigation is yet to be completed.

Therefore, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner on the ground of length of detention only, the ongoing investigation is most likely to be adversely affected.

Accordingly, the bail application stands **rejected**.

As the accused has been in jail custody, the investigating officer is directed to complete the investigation at the earliest.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant