

GAHC010175242023



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

Case No. : Bail Appln./2811/2023

DILUAR HUSSAIN
S/O MD. MUSLAM UDDIN
VILL- SAPKATI
P.O. DEWAGURI,
P.S. LAHORIGHAT
DIST. MORIGAON
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 MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 18.09.2023

Heard Mr. A. Ahmed, learned counsel or the petitioner. Also heard Mr. B.

Gogoi, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure praying for grant of bail to the accused/petitioner, who has been languishing in jail hazot in connection with Morigaon P.S. Case No. 857/2021, under Sections 420/409 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

The learned counsel for the petitioner, Mr. A. Ahmed, has submitted that the present accused/petitioner is shown arrest in connection with this case on 26.07.2023, while he was in judicial custody in connection with Mikirbheta P.S. Case No. 90/2023. The case is basically based on documentary evidence and during his entire period of custody, all the relevant documents, which were in custody of the bank officials, are already been collected by the I.O. and hence, further custodial interrogation in connection with this case is not at all necessary. Further it is submitted by the learned counsel for the petitioner that the accused/petitioner is a permanent resident of his addressed locality and there is no chance of absconding if he is granted with bail. Rather he will fully co-operate with the I.O. in the further investigation of this case.

In this context, the learned Additional Public Prosecutor, Mr. Gogoi, has submitted that there are sufficient incriminating materials against the present accused/petitioner and he has been shown arrest in connection with this case, wherein the F.I.R. was lodged in the year 2021. But, while he was in judicial custody in connection with other case, he was shown arrest in connection with this case. Further, from the Case Diary, it reveals that the I.O. has collected the

list of as many as 220 numbers of the persons whose ATM Cards have been used fraudulently to withdraw money. However, he submitted that as per the report of the bank officials, they did not produce the bank transaction records before the I.O. during the investigation of this case, though several requests have been made by the I.O. The learned Additional Public Prosecutor further submitted that considering the length of detention already undergone by the accused/petitioner and also considering the fact that the case is of the year 2021, the matter may be considered accordingly.

After hearing the submissions made by the learned counsels for both sides and considering the materials available on record as well as on Case Diary, it is seen that the accused/petitioner is in custody for a considerable period after he has been shown arrest in connection with this case. Further it is seen that the bank authorities are not co-operating with the I.O. in the investigation of this case to procure more relevant documents in connection with this case. So, considering these aspects of the case, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner keeping him in custody and accordingly, I find that further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon, the accused/petitioner, namely, Diluar Hussain, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner 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 Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Morigaon, without prior permission.

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

JUDGE

Comparing Assistant