

GAHC010203142023



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

Case No. : Bail Appln./3202/2023

RAMEZ ALI AND ANR
SON OF KITAB ALI, RESIDENT OF VILLAGE- KOYAKUCHI
BHAKUWAMARI, P.S. AND DISTRICT- BARPETA, ASSAM

2: ARIFUL ISLAM
SON OF JALALUDDIN
RESIDENT OF VILLAGE- BHAKUWAMARI
P.S. AND DISTRICT- BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N J DUTTA
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

29.09.2023

Heard Mr. N. Ahmed, learned counsel for the accused persons and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Ramez Ali and Ariful Islam**, who has been languishing in jail hazot since 29.08.2023, in connection with the **Morigaon P.S.**

Case No. 244/2023, under Sections 379/420 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Momi Mahanta, on 13.06.2023. The essence of allegations made in the FIR is that on 13.06.2023, at about 4 pm, the informant withdrawn a sum of Rs. 5,000/- from the SBI ATM of Gohaigaon and while she was trying to check the mini statement, then one boy with a black mask, advised her to press the mini Statement button and then she press the mini Statement button and pretending to help her, the boy exchange her ATM Card and therefore, her husband received a massage of withdrawn a sum of Rs. 10,000/- and after sometime again received a massage of withdrawn a sum of Rs. 65,000/- from her ATM Card.

4. Mr. Ahmed, learned counsel for the accused persons submits that the accused persons were on 01.09.2023. Mr. Ahmed further submits that the accused persons have been languishing in jail hazoot for last 28 days and that further custodial detention of the accused persons seems to be unwarranted here in this case and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Das, learned Additional Public Prosecutor has produced the case diary before this Court and submits that several ATM Cards were recovered from one Ariful Islam; Shahidul Islam; and Ramez Ali by the police and that they are habitual offender and that the IO has noted in the case diary that some amount of money has been withdrawn from the bank of the informant's husband at the relevant time and therefore, it is contended to dismiss the petition.

6. Having heard the submissions 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 learned Additional Public Prosecutor.

7. It appears that the accused persons were arrested in this case on 01.09.2023, and since then, they have been languishing in jail hazoot for last 28 days. Further it appears from the case diary that the I.O. has achieved substantial progress

in the investigation of the case and further custodial detention of the accused persons seems to be unwarranted here in this case and accordingly, it is provided that on his furnishing a bond of Rs. 50,000/- only each, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Morigaon**, the accused persons be enlarged on bail.

- 8.** In terms of above, this bail application stands disposed of.
- 9.** The case diary be returned.

JUDGE

Comparing Assistant