

GAHC010212672023



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

Case No. : Bail Appln./3386/2023

MD ARIFUL ISLAM AND ANR
SON OF MD. JALALUDDIN, RESIDENT OF BHOKUAMARI, P.S. AND
DISTRICT- BARPETA, ASSAM

2: MD. RAMEZ ALI
SON OF KITAB ALI
RESIDENT OF VILLAGE KOYAKUCHI BHAKUWAMARI
P.S. AND DISTRICT- BARPETA, ASSA

VERSUS

THE STATE OF ASSAM, REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 22-09-2023

Heard Mr. N. Ahmed, learned counsel for the accused and also heard Mr. P. Borthakur, learned Addl. P.P. for the State respondent.

This application under Section, 439 Cr.P.C. is preferred by the accused, namely 1. Md. Ariful Islam and 2. Md. Ramez Ali who are languishing in jail hajat in connection with Jagirod P.S. Case No.71/2023, under Section 420/379 IPC.

The above noted case has been registered on the basis of one complaint lodged by Ms. Nabanita Medhi on 26.2.2023.

The essence of allegation made in the FIR, dated 26.2.2023, is that on 25.2.2023, at about 6 PM, while the informant was withdrawing a sum of Rs. 5,000/- from one SBI ATM, situated near Bishnu Mandir, Nellie, then two persons suggested her to take the receipt and another person fraudulently exchanged her ATM card and withdrawn a sum of Rs.65,000/- after 20 minutes.

Mr. Ahmed learned counsel for the accused submits that both the accused were earlier arrested in connection with Jagirod P.S. Case No. 244/2023, and in the present case they have been shown arrested on 11.9.2023 and since then, they are languishing in jail hajat and that nothing has been recovered from their possession and therefore, Mr. Ahmed contended to allow this petition.

Whereas, Mr. P. Borthakur, learned Addl. P.P. has produced the case diary before this Court and submits that the I.O. has collected sufficient materials against the accused persons and the informant has identified both the persons at police station and therefore, Mr. Borthakur, learned Addl. P.P. has opposed the petition.

Having heard the submissions of learned Advocates for 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. Borthakur, learned Addl. P.P.

It appears that both the accused have been shown arrest herein this case on 11.9.2023, and further it appears that the I.O. has collected some materials in support of the allegation made in the FIR. However, it appears that the I.O. got sufficient time for investigation of this case. In view of above, further custodial detention of the accused persons, in the interest of investigation, seems to be not warranted herein this case.

Therefore, balancing the period of detention with that of the nature and gravity of the offence, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs.50,000/-, each with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Morigaon, both the accused persons be enlarged on bail.

In terms of above, the bail application is disposed of.

Case diary be returned.

JUDGE

Comparing Assistant