

GAHC010217292023



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

Case No. : Bail Appln./3428/2023

DEWAN SAMSUDDIN AND 3 ORS
S/O ABDUL SOBOR
R/O VILL- SONAPUR PATHAR,
P.S. SONAPUR,
DIST. KAMRUP (METRO), ASSAM

2: SAIDUL ISLAM
S/OLT. SUKUR ALI
OF VILL- BOGAMARI
P.S. AND DIST. BARPETA
ASSAM

3: MD. RAMESH ALI
S/O MD. KITAP ALI
VILL- KAYAKUCHI
P.S. AND DIST. BARPETA
ASSAM

4: ARIFUL ISLAM
S/O MD JALAL UDDIN
VILL- BHOKUAMARI
P.S. AND DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

06.10.2023

Heard Mr. N. Ahmed, learned counsel for the accused persons and Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by four accused persons namely, **Dewan Samsuddin; Saidul Islam; Md. Ramesh Ali; and Ariful Islam**, who have been languishing in jail hazot, in connection with the **Jagiroad P.S. Case No. 166/2023**, under Sections 420/379 of the IPC, since 14.09.2023 for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Chandi Charan Bordoli, on 15.05.2023. The essence of allegations made in the FIR is that on 13.05.2023, at about 7:10 pm, the informant has withdrawn a sum of Rs. 10,000/- from the ATM of ICICI Bank at Jagiroad, then one person entered into the ATM and asked him to enter to ATM Card again in the machine and then the person changed his ATM Card and later on, the informant came to know that a sum of Rs. 1,05,000/- is withdrawn from his account.

4. Mr. Ahmed, learned counsel for the accused submits that the accused persons were arrested in connection with Morigaon PS Case No. 244/2023, under Sections 420/379 of the IPC and at the relevant point of time, all the accused persons were in jail hazot and then they were shown arrested here in this case on 14.09.2023, and as such, the present accused persons are no way involved with the offence alleged in the FIR of Jagiroad PS Case No.

166/2023, and that they have been languishing in jail hazot for last 23 days and therefore, it is contended to allow the petition.

5. On the other hand, Ms. Begum, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected some materials, in support of the allegations made in the FIR and that the present accused persons are habitual offender and involved with many other cases 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 have been shown arrested in this case on 14.09.2023, and since then, they have been languishing in jail hazot for last 23 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. Accordingly it is provided that on 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 be enlarged on bail.

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

9. The case diary be returned.

JUDGE

Comparing Assistant