

GAHC010230062023



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

Case No. : Bail Appln./3654/2023

ARIFUL ISLAM AND 3 ORS
S/O MD. JALALUDDIN
R/O VILL- BHOKUAARI
P.S. AND DIST. BARPETA, ASSAM

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

3: SAHIDUL ISLAM
S/O SUKUR ALI
R/O VILL- KAYAKUCHI
P.S. AND DIST. BARPETA
ASSAM

4: DEWAN SAMSUDDIN
S/O ABUL SOBOR
R/O VILL- SONAPUR
P.S.SONAPUR
DIST. KAMRUP (METRO)
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**

17.10.2023

Heard Mr. N. Ahmed, learned counsel for the accused persons and Mr. P. Borthakur, 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 persons namely, **Ariful Islam; Md. Ramesh Ali; Shahidul Islam; Dewan Samsuddin**, who has been languishing in jail hazot in connection with the **Morigaon P.S. Case No. 302/2023**, under Sections 420/379 of the IPC, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one Ramendra Kumar Nath, on 09.08.2023. The essence of allegations made in the FIR is that on 01.08.2023, at about 5:20 pm, while he was withdrawing money at the Guhaigaon Morigaon SBI ATM, two unknown persons fraudulently exchanged his SBI ATM card and later on, a sum Rs. 1,15,000/- was debited from his account.

4. Mr. Ahmed, learned counsel for the accused persons submits that the accused persons were shown arrested, here in this case on 03.10.2023, and that they have already been granted bail in three other cases, in connection with Morigaon PS Case No. 244/2023; Jagiroad PS Case No. 71/2023; and Jagiroad PS Case No. 74/2023. Mr. Ahmed further submits that they are innocent and no way involved with the offence alleged in the FIR, and therefore, it is contended to allow this petition.

5. On the other hand Mr. Borthakur, learned Additional Public Prosecutor, by producing the case diary before this Court, submits that the IO has collected sufficient incriminating materials against the accused persons, including the CC TV Footage and that several cases have been registered against all the accused persons and they are habitual offender, and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties 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. The perusal of the case diary reveals that the IO has collected sufficient materials against the accused persons and investigation is still going on and enlarging the accused persons on bail at this stage will misdirect the investigation.

8. In view of above, this court is of the view that this is not a fit case where the privilege of bail can be extended to the accused persons.

9. Accordingly the petition stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant