

GAHC010248672022



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

Case No. : AB/3606/2022

TAFIKUDDIN AHMED
S/O TAIJUDDIN AHMED R/O SONIADI BIHDIA P.O. SONIADI, P.S. HAJO,
DIST. KAMRUP ASSAM-781102

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. DITUL DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 17-03-2023

Heard Mr. D. Das, learned counsel for the petitioner and Mr. K.K. Parasar, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Tafikuddin Ahmed has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Hajo Police Station Case no. 666/2022, registered under Section 379, Indian Penal Code [IPC] for the second occasion after rejection of his previous bail application, A.B. 2071/2022 by the order dated 12.08.2022.

3. In the First Information Report [FIR], lodged before the Officer In-Charge, Hajo Police

Station on 05.07.2022, the informant had **inter alia** alleged that the ATM Card belonging to his father was lost and thereafter, a number of transactions were carried out by using that lost ATM Card. The account statements, received at a later date, reflected that an amount of ₹ 59,954/- had been utilized/withdrawn at different establishments/ATM booths through that ATM Card.

4. Mr. Das, learned counsel for the petitioner has submitted that notwithstanding the observations made in the previous order dated 12.08.2022, which did not directly implicate the petitioner with any act of theft of the ATM Card, the petitioner is presently recovering after undergoing surgery at M/s Life Care Multispecialty Hospital, Patna in the month of December, 2022. It is submitted by him that the petitioner had been suffering from cervical disc disease at C₅ – C₆ level. He has beseeched that the prayer for pre-arrest bail be considered, considering the serious health condition of the petitioner.

5. Mr. Parasar, learned Additional Public Prosecutor who has received the case diary, has submitted that the investigation is still in progress.

6. On perusal of the materials in the case diary, it emerges that one Ajnur Ali who was arrested in the course of investigation, had used the ATM Card of the informant at different establishments/ATM booths for buying or withdrawing money. Aznur Ali in his statement recorded under Section 161, CrPC had implicated the present petitioner and has stated that it was the petitioner who had handed over the concerned ATM Card to him stating that the ATM Card was found by the present petitioner inside an ASTC Bus.

7. From the certificate issued by M/s Life Care Multispecialty Hospital, Patna, it is noticed that the petitioner had undergone a surgery at the said hospital in the month of December, 2022 for his cervical disc disease at C₅ – C₆ level and the present petitioner had been advised complete rest.

8. Having considered the present health condition of the petitioner vis-à-vis the nature of

materials found against him during the course of investigation carried out so far and the present stage of investigation, this Court is of the considered view that if the benefit of pre-arrest bail is extended to the petitioner at this stage of investigation, the further investigation of the petitioner is not going to be adversely affected, provided he extends his assistance and co-operation in the further investigation of the case.

9. Accordingly, it is provided that in the event of arrest of the petitioner viz. Tafikuddin Ahmed in connection with Hajo Police Station Case no. 666/2022, he shall be released on bail on furnishing a bail bond of ₹ 25,000/- with one local surety of the like amount, to the satisfaction of the arresting authority, subject to the conditions that :

[i] the petitioner shall appear before the Investigating Officer [I.O.] of the case within 15 [fifteen] days from today and shall thereafter, appear before the I.O. of the case as and when his presence is called for;

[ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness 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] the petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

[iv] the petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer in charge;

[v] the petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[vi] the petitioner shall regularly remain present during the trial and cooperate the Court to complete the trial for the above offences, if charge-sheeted in the case.

10. The application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant