

GAHC010249912023



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

Case No. : AB/3752/2023

HIFJUR RAHMAN
S/O LATE AJIJUR RAHMAN
R/O VILL- SONAPUR PATHER,
P.S. SONAPUR,
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 14.11.2023

Heard Mr. N. Ahmed, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State.

This application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the petitioner, namely, Hifjur Rahman, who is seeking pre-arrest bail in connection with the Jagiroad P.S. Case No. 238/2023 registered under Sections 279/333/307/427/420/468/471/34 of IPC.

The gist of the accusation in this case is that on 10.08.2023, one Biman Konwar, ASI of Nellie Police out post lodged an FIR before the Officer-in-Charge, Jagiroad Police Station, *inter-alia*, alleging that on receipt of an information through secret sources that three persons involved in ATM fraud were coming from Nagaon side to Guwahati in a blue colour Swift car bearing registration No AS01EG6815 and accordingly, a naka checking was conducted.

Later on, when the said card approached the naka checking area, it was signalled to stop, however, the driver disobeyed the signal and barged against the barricades and in the process injured some of the police personnel on duty.

Later on, the vehicle was intercepted and the occupants of the said vehicle were arrested. They were found to be involved in ATM fraud. 37 ATM numbers of cards, one swipe machine, four numbers of mobile phones and some other materials were seized from their possession.

Learned counsel for the petitioner has submitted that the petitioner is no way involved in the offence alleged in the FIR, his only involvement is that one of the occupant of the vehicle namely, Hanifur Rahman is his own brother and the vehicle which was seized in connection with this case is his own vehicle.

Learned counsel for the petitioner has submitted that as accused Hanifur Rahman is brother of the petitioner, he was allowed by the petitioner to use his vehicle without knowing anything about the alleged misdeeds in which his brother was indulging in.

Learned counsel for the petitioner has also submitted that the petitioner would co-operate in investigation if he is allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Jagiroad P. S. Case No. 238/2023 and has submitted that though there are incriminating materials against the other accused persons, it appears from the case diary that the present petitioner is the owner of the vehicle which was seized in connection with this case and he allowed his brother, who is the main accused in this case, to use the said vehicle.

On the aforesaid ground, learned Additional Public Prosecutor has opposed the grant of anticipatory bail to the present petitioner.

I have considered the submission made by learned counsel for both the sides and have perused the case diary of Jagiroad P. S. Case No. 238/2023, it appears from record that there is no specific allegation of present petitioner himself being involved in the alleged ATM fraud scam, however, it appears that the vehicle which was used by the main accused persons belongs to the present petitioner.

Considering the fact that at this stage of the investigation, there is no material on record to show that the petitioner was himself involved in the ATM fraud scam, the present petitioner, namely, Hifjur Rahman, is hereby directed to appear before the Investigating Officer of Jagiroad P. S. Case No. 238/2023 within a period of 10 days from the date of this order and co-operate in the investigation and if he does so within the said period, in the event of his arrest in connection with Jagiroad P. S. Case No. 238/2023, he shall be allowed to go on anticipatory bail of Rs. 30,000/- (Rupees Thirty Thousand only), with one surety of like amount to the satisfaction of the arresting authority with following condition that:

i. That the petitioner shall co-operate with the Investigating Officer in fair completion of the investigation and shall appear before the Investigating Officer as and when required for the sake of fair investigation.

With the above observations, this anticipatory bail application is disposed of.

Send back the case diary.

JUDGE

Comparing Assistant