

GAHC010254802022



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

Case No. : Bail Appln./3460/2022

FAIJNUR RAHMAN @ FAZILUR RAHMAN
S/O AZIZUR RAHMAN
R/O VILL- NO. 1 BARUA PATHAR
P.S. BOKO, DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : P. KALITA

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./3680/2022

MD. SAMINUR ISLAM @ RAHMAN
SON OF MALADAR ALI

RESIDENT OF VILLAGE NO. 1 BARUA PATHAR

P.S.- BOKO

DISTRICT- KAMRUP
ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP
ASSAM.

Advocate for : MR. S MUNIR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

09.01.2023

Heard Mr. A. Paramanik, learned counsel for the accused-petitioner in B.A. no. 3460/2022; Ms. L. Islam, learned counsel for the accused-petitioner in B.A. no. 3680/2022; and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this two applications under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioners viz. 1) Faijnur Rahman @ Fazilur Rahman in B.A. no. 3460/2022; and 2) Md. Saminur Islam @ Rahman in B.A. no. 3680/2022, have prayed for their release on bail in connection with Boko Police Station Case no. 528/2022, registered under Sections 120B/418/420/406/409/468, Indian Penal Code [IPC].

3. The First Information Report [FIR] was lodged on 08.11.2022 by a number of persons as informants against the two accused-petitioners herein with the allegations that two accused-petitioners by calling for public meetings on different dates, had deceived the public by projecting that they were having a web-based application which used to provide facilities to the investors to get higher amounts than the money invested within a short period of time. As per the FIR, if an investor makes a recharge through the web-based application for an amount of Rs. 300/- then he would get a sum of Rs. 130/- for the next three days, meaning

thereby, at the end of three days, the investor would get an additional amount of Rs. 390/- apart from his invested amount of Rs. 300/-. Likewise, if the investor makes recharge of higher amounts, there would be proportionate increase in the amounts to be received by the investor.

4. The materials in the case diary, collected during the course of investigation carried out so far, go to corroborate the allegations made by the informants in the FIR. The Statements of the witnesses, available in the case diary, go to indicate that a large number of persons were deceived by the projections made by the two accused-petitioners in respect of the web-based application and lost of a substantial amount cumulatively in the process.

5. The two accused-petitioners were arrested and produced before the Court of learned Judicial Magistrate, 1st Class, Boko on 14.11.2012 and on being so produced, they were remanded to custody. Thus, the accused-petitioners are in custody for 57 days till date.

6. Considering the extent of progress made in the investigation carried out so far; and the fact that the accused-petitioners are in custody for 57 days since 14.11.2022 wherein they have been thoroughly interrogated, this Court is of the considered view that further custodial detention of the accused-petitioners are not necessary for the purpose of carrying out further investigation of the case and their release on bail, at this stage of investigation, is unlikely to cause any adverse effect in the further investigation of the case, provided they continue to extend their assistance and co-operation in the further investigation of the case.

7. Accordingly, it is directed that the accused-petitioners viz. 1) Faijnur Rahman @ Fazilur Rahman in B.A. no. 3460/2022; and 2) Md. Saminur Islam @ Rahman in B.A. no. 3680/2022, shall be released on bail on furnishing a bail bond of Rs. 50,000/- each with one local surety each of the like amount to the satisfaction of the learned Judicial Magistrate, 1st Class, Boko, subject to the conditions that :-

[i] the accused-petitioners shall co-operate with the investigation and make themselves available for interrogation whenever required by the Investigating Officer

[I.O.] of the case;

[ii] the accused-petitioners 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 them from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioners 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 accused-petitioners shall maintain law and order and they shall not commit an offence similar to the offence of which they are accused, or of the commission of which they are suspected; and

[v] the accused-petitioners shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

8. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant