

GAHC010264302022



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

Case No. : Bail Appln./3581/2022

AMINUL HOQUE @ AMIN AND ANR
SON OF AHMED ALI
R/O KOYAKUCHI, BHAKUWAMARI
P.S. AND DIST. BARPETA, ASSAM

2: LOTFAR RAHMAN @ ROCKY
S/O ABUL KALAM
R/O KOYAKUCHI
BHAKUWAMARI
P.S. AND DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

19.01.2023.

Heard Mr. N.J. Dutta, learned counsel for the accused. Also heard Mr. B.B. Gogoi, learned Addl. P.P., Assam, for the State respondent.

This application, under Section 439 of the Code of Criminal Procedure, is preferred by four accused, namely, Aminul Hoque @ Amin and Lotfar Rahman @ Rocky, who have been languishing in jail hazoot since 15.12.2022, in connection with the Geetanagar P.S. Case No.202/2022, under Sections 419/420 of the IPC, read with Section 66C of the I.T. Act, for granting bail.

The said case has been registered on the basis of an F.I.R., lodged by one Chanik Basfor on 13.07.2022, to the effect that he has withdrawn a sum of Rs.3,00,000/-, from his SBI Account No.10567093906 of Geetanagar Branch and there remains more than Rs.22,00,000/-, but, later on he came to know that someone had withdrawn entire amount by his ATM Card, from his account since 21.06.2022, subsequently he has found that his ATM Card was exchanged with the ATM Card of one Akshay Talukdar.

Mr. N.J. Dutta, learned counsel for the accused submits that the accused persons were arrested in connection with some other cases relating to misappropriation of money by using ATM Card and in the present case, they have been shown arrested on 15.12.2022, and for last 35 days, they have been languishing in jail hazoot. Mr. Dutta further submits that the accused persons are innocent and they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

Whereas, Mr. B.B. Gogoi, learned Addl. P.P., Assam has produced the case diary before this Court and fairly submits that they have been shown arrested with the present case only on suspicion and the materials collected so far in the case diary are inadequate to show their complicity with the offence alleged in the FIR.

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 Mr. Gogoi, learned Addl. P.P., Assam.

It appears that the accused persons have been shown arrested on 15.12.2022, here in this case, and further, it appears from the materials collected so far in the case diary that they have been shown arrested in the case only on suspicion and their further custodial detention seems to be unwarranted in the interest of investigation of the case. Therefore, it is provided that on furnishing a bail bond of Rs.25,000/- (Rupees twenty five thousands) each, with one surety of like amount to the satisfaction of the learned CJM, Kamrup (M) at Guwahati, the accused persons, named above, shall be enlarged on bail, in connection with the Geetanagar P.S. Case No.202/2022.

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

The case diary be returned.

JUDGE

Comparing Assistant