

GAHC010036132024



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

Case No. : Bail Appln./527/2024

MAJAHARUL ISLAM AND ANR.
S/O KAJIM UDDIN
R/O VILL- SAHARIAPAM, WARD NO. 10, P.S. MOIRABARI
DIST. MORIGAON, ASSAM

2: OMARE FARUQUE
S/O KAJIM UDDIN
R/O VILL- SAHARIAPAM
WARD NO. 10
P.S. MOIRABARI
DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 14-03-2024

Heard Ms. S.K. Nargis, learned counsel for the petitioners Majaharul Islam

and Omare Faruque. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent.

2. The petitioners have prayed for bail on the ground of parity as the co-accused have been granted bail in connection with Bail Appln./4437/2023 vide order dated 19.12.2023 and Bail Appln./4468/2023 vide order dated 20.12.2023.

3. The petitioners have filed this petition under Section 439 of the Code of Criminal Procedure, 1973 with prayer for bail in connection with Moirabari Police Station Case No. 224/2023 under Sections 120(B), 419, 420, 467, 468, 471, 406, 34 of the Indian Penal Code, 1860 read with Section 66 (C) and 66(D) of the IT Act.

4. The learned Additional Public Prosecutor has raised serious objection stating that the petitioners are not similarly placed with the other co-accused who have been granted bail. The question of parity does not arise so far as the present petitioners are concerned. It is submitted that the case diary reveals that the petitioners are complicit and there are incriminating materials against the present petitioner.

5. I have considered the submissions at the bar with circumspection.

6. The FIR unfolds that Ajay Gupta through an email dated 25.10.2023 at about 2.36 PM addressed to the DGP Grievance Cell reported of suspicious transaction in his IDFC Bank Account. It was alleged that his credentials were used in the State of Assam and while filing his Income Tax Return for the F.Y. 2022-2023, he learnt about the fraudulent transaction made through his bank account by using his ID and PAN Card, that too in the State of Assam. It was alleged that the mobile phone number of Morigaon district in the State of Assam

was not linked to his email id.

7. During investigation sufficient materials were found against the petitioners and they were shown as arrested in connection with this case. The petitioners were earlier arrested in connection with another case being Jajori Police Station Case No. 03/2024 under Sections 120(B)/466/467/471 of Indian Penal Code, 1860.

8. In the instant case the petitioners' names have not been mentioned in the FIR but during investigation certain incriminating materials were found against the petitioners.

9. I have also scrutinized the Case Diary. Indeed there are incriminating materials against the petitioners. However, investigation has also progressed to a considerable extent. It is submitted that the petitioners are behind bars for 42 (Forty Two) days. It appears that further custodial detention may not be required for the progress of investigation.

10. I have also considered the submissions that the petitioners are willing to cooperate with the investigation. The petitioners are local residents and they are willing to abide by any bail conditions if imposed upon them.

11. Considering all aspects, petition is allowed. The petitioners are enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) each with one suitable surety of like to the satisfaction of the Eleka Magistrate under the conditions:

- (i) The petitioners shall cooperate with the investigation.
- (ii) The petitioners shall not leave the jurisdiction of the Court without prior permission till completion of investigation and if any final report is submitted against them, till completion of trial.

(iii) The petitioners shall refrain from such activities with which they are alleged.

On breach of any bail conditions, bail order shall stand cancelled.

Send back the Case Diary.

JUDGE

Comparing Assistant