

GAHC010036302024



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

Case No. : AB/452/2024

MOTIUR HAQUE @ MOTIUR RAHMAN
S/O NURUL AMIN
R/O VILL- SILPUKHURI
P.S. MIKIRBHETA, P.O. MIKIRBHETA
DIST. MORIGAON, ASSAM
PIN-782106

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S N TAMULI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 11-03-2024

- 1.** Heard Mr. S.N. Tamuli, learned counsel for the petitioner.
- 2.** The petitioner, namely, Motiur Haque @ Motiur Rahman has filed this

application u/s 438 Cr.PC with prayer of pre-arrest bail as he is apprehending arrest in connection with Mikirbheta P.S. Case No. 97/2023 registered u/s 120(B), 420, 406, 468, 471 and 464 of the IPC.

3. Heard Mr. R.R. Kaushik, learned Addl. PP, Assam.

4. The learned counsel for the petitioner has submitted that the petition is filed on a new ground that the co-accused has been enlarged on bail. It is also further submitted that although this is a subsequent bail petition with prayer for pre-arrest bail the other new ground is that the allegedly seized ATM cards which were recovered from the possession of the petitioner are inactive at this juncture.

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

6. The F.I.R. unfolds that the informant along with other police personnel have conducted search at SBI CSP Boribazar belonging to Si Jaibur Rahman and run by Sri Motiur Rahman @ Motiur Hoque i.e. the present petitioner and several items were recovered from the possession of the petitioner such as 227 Nos. of SBI Pass Books, 470 Nos. of SBI ATM Cards, 24 Nos. of HDFC ATM Cards some PAN and AADHAR Cards and 25 Nos. of Registers having records of Bank Account holders. Police has also recovered one Desktop Computer set along with some other incriminating materials and these were seized in connection with this case.

7. Learned APP raised serious objection against the prayer of the petitioner for interim bail. It is submitted by the learned APP that during the investigation as per the bank statement, it came to light that in the name of several innocent persons, the petitioner along with other accused person opened bank accounts and thereafter money was withdrawn from these bank accounts by the

petitioner. The individual in whose name the accounts were opened were the actual beneficiaries of Several Government Schemes such as MRNREGS, Pre-Matric Scholarship (Minority Scholarship), Old Pension Scheme, Mukhya Mantri Krishi Yojana, PM Kisan Yojna etc. The money disbursed for the beneficiaries was not received by the beneficiaries but the same was withdrawn by the petitioner. The Government funds were siphoned off by the petitioner, which has been used for wrongful gain by the petitioner.

8. I have considered the magnitude of the offence. It appears that the beneficiaries have been deprived of benefits and were not even aware about the account numbers that were opened in their names by using their documents like PAN Card and Adhaar Card etc. by the petitioner along with the other accused person and the Government fund was siphoned off by the petitioner for wrongful gain.

9. A scrutiny of the Case Diary reveals that there are indeed incriminating materials against the petitioner. The co-accused who was granted bail is not similarly placed with the present petitioner. The co-accused is the brother of the petitioner who is the owner of the CSP Centre and the present petitioner allegedly used to run the CSP. There appears no justified ground to extend the privilege of anticipatory bail to the petitioner, at this stage. It appears that investigation may be adversely affected if the petitioner is admitted to bail.

10. In view of the foregoing discussions, petition with prayer for anticipatory bail is rejected at this juncture.

Send back the Case Diary.

JUDGE

Comparing Assistant