

GAHC010051352024



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

Case No. : AB/655/2024

MADHAB DEY
S/O- LATE NARAYAN CH. DEY R/O - SARASWATI COLONY, P.O AND P.S-
RANGIA DISTRICT- KAMRUP, ASSAM, PIN - 781354.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM.

Advocate for the Petitioner : MR J I MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04.04.2024

Heard Mr. A. Ishlam, learned counsel for the petitioner. Also heard
Mr. B. Sharma, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal
Procedure, 1973, has been filed by the petitioner Madhab Dey, who is
apprehending his arrest in connection with Rangia P.S. Case No. 61/2024

under Section 468/406/379 of the IPC.

The gist of accusation in this case is that one Kannon Bala Dey, who is the mother of the present petitioner had lodged an FIR before the Officer In-charge of Rangia Police Station on 14.02.2024, inter alia, alleging that the present petitioner has registered his mobile Number against the Bank account number of his mother by forging the signature of his mother and also collected the ATM card of his mother from Rangia Post office and thereafter he had withdrawn Rs. 1,92,000/- (Rupees one lakh ninety two thousand only) from the account of the first informant without consent of the first informant.

It is also alleged that in the FIR had on earlier occasion also that the petitioner had stolen Rs. 3,00,000/-(Rupees three lakh only), and the mother had lodged an FIR however, that matter was settled at Rangia Police Station, when the present petitioner promises to repay back the aforesaid amount.

However, the said amount has not yet been paid back.

Learned counsel for the petitioner has submitted that the allegations leveled against the present petitioner in the FIR are not true.

It is also submitted that the younger brother of the petitioner, who was a drug addict had made conspiracy along with the informant i.e., his mother against the present petitioner.

It is also submitted that he is willing to cooperate in the investigation.

On the other hand, learned Additional Public Prosecutor, as vehemently opposed the grant of anticipatory bail to the present petitioner, on the ground that the mother of the petitioner would not have

normally made a false accusation against the present petitioner and this is for the second time, the petitioner has committed theft of money from his mother.

I have considered the submissions made by learned counsels for both the sides and perused the material on record including the case diary of Rangia P.S. Case No. 61/2024, it appears that the informant, who is the mother of the petitioner has given incriminating statement against the present petitioner as well as the younger brother of the present petitioner has also made incriminating statements against petitioner.

It also appears that this is for the second time that the present petitioner has committed the similar offence of stealing money from his mother.

Considering the incriminating materials available on record and considering the fact for the offence that has been allegedly committed against his own other by the petitioner, this court is not inclined to grant the benefit of favorable order under Section 438 of Code of Criminal Procedure to the present petitioner.

Hence the prayer for anticipatory bail is rejected.

Send back the case diary.

JUDGE

Comparing Assistant