

GAHC010055072024



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

Case No. : Bail Appln./770/2024

MUSTAFIZUR RAHMAN @ ARIF AND 2 ORS.
S/O ANISUR RAHMAN
R/O VIL- MOIRABRI, WARD NO. 09,
P.S. MOIRABRI
DIST. MORIGAON, ASSAM
PIN-782126

2: MD. MUSTAFIZUR RAHMAN
S/O MD. ABDUL MAJID
R/O VILL- MOIRABARI
P.S. MOIRABARI
DIST. MORIGAON
ASSAM
PIN-782126

3: MD. HJAIL AHMED
S/O MD. SHAFI UDDIN
R/O VILL- MOIRABRI
TO MOIRABARI ROAD
SAHARIA GAON

NEAR JAME MASJID
DIST. MORIGAON
ASSAM
PIN-78212

VERSUS

THE STATE OF ASSAM
REP BY THE LD. PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent :

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : **09.04.2024**

Heard Mr. M.A. Sheikh, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Additional Public Prosecutor appearing for the State.

2. By filing this bail application made under **Section 439 Cr.P.C.**, by the petitioners, namely, **Mustafizur Rahman @ Arif, Md. Mustafizur Rahman and Md. Hujail Ahmed** have prayed for bail in connection with **Moirabari P.S. Case No. 18/2024**, registered under **Section 120(B)/419/420/406/467/468/471/34 IPC r/w Section 66(C)/66(D) of I.T. Act.**

3. The background of the case is that on 23/01/2024 an FIR was lodged before the Superintendent of Police, Morigaon, alleging *inter alia* that the RUPAY credit card and other credit cards which allow linking of credit card to UPI transaction was introduced by the banks in the year 2023. The credit cards are virtual credit cards and no physical cards were issued by the Axis bank. Subsequently, some frauds were detected on impersonating as genuine customers applied for Axis cards by making fabricated pan cards. On the basis of the FIR, a case was registered vide Moirabari P.S. case no 18/2024.

4. It is submitted by learned counsel for the petitioners that they are innocent and no way connected with the alleged offence. It is also submitted

that the name of the petitioners are not mentioned in the FIR. It is also submitted that only Rs.60,000/- was recovered from the possession of the petitioner No. 2. The petitioner is No. 3 is suffering from various ailments and he was brought to S.T.H.G. Civil Hospital, Morigaon during the custodial detention. It is further submitted that the petitioners have been detained in custody since 07.02.2024. Considering the period of detention as well as the background of the case, the petitioners may be enlarged on bail.

5. On the other hand, learned Additional Public Prosecutor has produced the case diary and submits that there are sufficient incriminating materials found in the case diary against the petitioners. The petitioners along with the other accused has impersonated the customer by fabricating Pancard and Aadhar. Considering the gravity of the offence, bail may not be granted to the petitioners.

6. The allegation against the petitioners is that the accused/petitioners along with other accused took loan from several platform as well as Axis bank by making forged documents for their personal gain. However, considering the length of detention, bail is granted to the petitioners.

7. Accordingly, the accused-petitioners, named above, shall be released on bail in connection with **Moirabari P.S. Case No. 18/2024**, registered under **Section 120(B)/419/420/406/467/468/471/34 IPC r/w Section 66(C)/66(D) of I.T. Act**, on furnishing bail bond of **Rs.40,000/- each with a suitable surety each** of the like amount to the satisfaction of learned CJM, Morigaon, Assam.

The direction for bail is further subject to the conditions that the accused-

petitioners:

(a) shall not leave the territorial jurisdiction of learned CJM, Morigaon, Assam, without prior written permission from him/her;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

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

JUDGE

Comparing Assistant