

GAHC010112532024



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

Case No. : Bail Appln./1631/2024

AMINUL HAQUE
S/O AHAMMAD ALI, R/O VILL- BHAUKAMARI, P.S. AND DIST-BARPETA,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

13.06.2024

Heard Mr. N. Ahmed, learned counsel for the accused and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 439 Cr.P.C. is preferred by accused, namely, Aminul Haque, who has been languishing in jail hazot since 01.04.2024, in connection with

Patacharkuchi P.S. Case No.59/2024 under Section 420/379 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by Uday Deka, on 19.03.2024. The essence of allegation made in the aforesaid FIR is that on 08.12.2023, at about 11/12 p.m., he has withdrawn money from the SBI ATM situated at Sarupeta, then three unknown persons asked him that one option has displayed in the ATM, then he again put his ATM in the machine to find out his mini statement, but he could not succeed in the same. Thereafter, on 11.12.2023, he came to know that a sum of Rs.41,000/- were withdrawn from his account, then through his YONO App, he checked his statement and came to know that someone has withdrawn money from the SBI ATM situated at Bhawanipur and then he got to know that the ATM, which was with him belonged to one Bhabesh Muchahari and therefore, he strongly suspects that those three boys could have exchanged his ATM. Thereafter, on 18.03.2024, he came to know that Bajali Police has detained three persons in ATM stealing case and after seeing their photos, he could recognize those three persons who were involved in his ATM stealing incident.

4. Mr. Ahmed, learned counsel for the accused submits that this is the 2nd bail application preferred by the accused and the first application, being Bail Appln. No.1457/2024 was dismissed by this Court, vide order dated 27.05.2024. Mr. Ahmed further submits that the ground for filing this 2nd bail application is that wife of the accused is in the family way and there is none to look after her and that some of the co-accused have already been enlarged on bail by this Court vide order dated 17.05.2024 in Bail Appln. No.1403/2024 and Bail Appln. No.1207/2024 as well as vide order dated 27.05.2024 in Bail Appln. No.1459/2024 and that the present accused is also stands in the same footing and that he is ready to cooperate with the investigating agency and therefore, Mr. Ahmed contended to allow the petition.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that though the investigation is yet to be completed, yet, material part of the investigation is almost over and that the

accused is languishing in jail hazot for last 57 days.

6. Having heard the submission 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. P.S. Lahkar, learned Additional P.P.

7. The case diary indicates that material part of the investigation is almost over. The accused is languishing in jail hazot for last 57 days and that some of the co-accused have already been enlarged on bail by this Court vide order dated 17.05.2024 in Bail Appln. No.1403/2024 and Bail Appln. No.1207/2024 as well as vide order dated 27.05.2024 in Bail Appln. No.1459/2024.

8. In view of above, this Court is of the view that further custodial detention of the accused may not be required in the interest of investigation and therefore, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Bajali, Pathsala, the accused, namely, Aminul Haque, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant