

GAHC010249342023



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

Case No. : AB/3659/2023

ZIABUR RAHMAN @ JIYABUR RAHMAN
S/O - MD HAZRAT ALI R/O- SIALMARI
PADUMPUKHURI P.S- KASUA DIST- NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM.

Advocate for : MR. A AHMED
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.02.2024

Heard Mr. A. Ahmed, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Ziabur Rahman @ Jiyabur Rahman, who has been apprehending arrest in connection with Patharkandi P.S. Case No.270/2023, under Section 420/379 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Abdul Hamid on 04.08.2023. The essence of allegation made in the aforesaid FIR is that he has one SBI account No.10916772134 and on that day i.e. 24.07.2023 at about 2:30 p.m., he went to the customer's service point and withdrawn a sum of ₹ 20,000/- and there he found that a sum of ₹ 1,02,369.92 is shown to be the balance in his account, but as per his knowledge there should have been ₹ 2,20,000/- in the account. Thereafter, he has checked the account statement and he came to know through the Branch Manager that some unknown culprits transferred money through UPI to the accounts of one Abdul Malek and Maina Begum maintained in Kampur Central Bank and rest of the amount was transferred to one account of Mumbai and on 22.07.2023 the SIM card of his mobile was rejected.

4. Mr. Ahmed, learned counsel for the applicant submits that this Court vide order dated 19.10.2023 was pleased to grant interim protection to the applicant and pursuant to the said order, he had appeared before the I.O. and cooperating with the investigating agency and that he is the member of Kachua Zila Parishad, Nagaon and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the present applicant is the mastermind of the offence and that the investigation is going on and custodial interrogation of the applicant is required in the interest of investigation and therefore, Ms. Begum contended to dismiss the petition.

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 Ms. Begum, learned Additional P.P.

7. The case diary indicates that pursuant to the order of this Court dated 19.10.2023, the applicant had appeared before the I.O. and his statement is recorded and having gone through the statement of the applicant, I find that he has not been cooperating with the investigating agency. The investigation of the case is going on and to unearth the conspiracy, custodial interrogation of the applicant seems to be indispensable here in this case and accordingly, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the petition stands dismissed. Interim order dated 19.10.2023 stands vacated.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant