

GAHC010276962023



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

Case No. : Bail Appln./4474/2023

MAJAHARUL ISLAM @ MAZAHARUL ISLAM
S/O ABDUL KADDUS
R/O VILL- DURABANDHI BEEL,
WARD NO. 10, P.S. MOIRABARI
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 04-01-2024

Heard Mr. R. Ali, learned counsel for the petitioner Majaharul Islam @ Mazaharul Islam.

2. The petitioner has filed this application under 439 of the Code of Criminal Procedure with prayer for bail in connection with Moirabari Police Station Case

No. 224/ 2023 under Sections 120(B)/419/420/467/468/471/406/34 of the Indian Penal Code read with Sections 66(C)/66(D) of I.T. Act (G.R. No. 1860/2023) as he is in jail since 03.11.2023.

3. Heard Mr. M. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

4. The petitioner has prayed for bail on the ground of parity as the co-accused being granted bail in connection with Bail Appln./4437/2023 vide order dated 19.12.2023 and Bail Appln./4468/2023 vide order dated 20.12.2023.

5. The learned Additional Public Prosecutor has raised serious objection stating that the petitioner is not similarly placed with the other co-accused who have been granted bail. The question of parity does not arise so far as the present petitioner is concerned. It is submitted that the case diary reveals that the petitioner is complicit and there are incriminating materials against the present petitioner.

6. I have considered the submissions at the bar with circumspection.

7. The FIR unfolds that Ajay Gupta through an email dated 25.10.2023 at about 2.36 PM addressed to the DGP Grievance Cell reported of suspicious transaction in his IDFC Bank Account. It was alleged that his credentials were used in the State of Assam and while filing his Income Tax Return for the F.Y. 2022-2023, he learnt about the fraudulent transaction made through his bank account by using his ID and PAN Card, that too in the State of Assam. It was alleged that the mobile phone number of Morigaon district in the State of Assam was not linked to his email id.

8. An enquiry was made and investigation commenced. During interrogation, it has surfaced that the mobile phone of Morigaon district and the articles seized

in connection with this case belongs to the present petitioner, who stated that one of his friends Mahib Ullah had helped him to prepare fake documents. At present, Mahib Ullah is absconding but his motorcycle was seized in connection with this case. During investigation it has emerged that a racket was run by the present petitioner with the help of the co-accused named in the FIR and through the network of the miscreants who worked in an organized manner, money of individuals have been siphoned by the miscreants who created fake documents and siphoned off a huge amount of funds belonging to the innocent citizens in far off places.

9. I have scrutinized the case diary. Indeed there are incriminating materials in the case diary against the present petitioner. Investigation has also progressed to a considerable extent. The petitioner has pledged to cooperate with the remaining part of the investigation as well as with the trial. It appears that further detention for the progress of investigation may not be required.

10. I have considered the submission that the petitioner is a local resident.

11. In view of my foregoing discussions, petition is allowed.

12. The petitioner is enlarged on bail on furnishing a bail bond of *Rs.50,000/- (Rupees Fifty Thousand)* with a suitable surety of like amount to the satisfaction of Eleka Magistrate under the conditions that:

- 1) The petitioner shall cooperate with the investigation as well as with the trial,
- 2) the petitioner shall not leave the jurisdiction of the trial Court without prior permission till completion of the trial, and
- 3) the petitioner shall refrain from such activities with which he is alleged.

On breach of bail conditions, bail order shall stand cancelled.

Bail Application stands disposed of in the above terms.

Send back the case diary.

JUDGE

Comparing Assistant