

GAHC010285852023



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

Case No. : Bail Appln./4567/2023

SAMIR ALI
S/O HASAN ALI
R/O VILL- JAKALI BIL PATHAR
P.O. AND P.S. GOBARDHANA
DIST. BAKSA, ASSAM
PIN- 781315

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 03.01.2024

Heard Mr. M.U. Mondal, learned counsel for the accused. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor for the State respondents.

2. This petition under Section 439 Cr.P.C. is preferred by the accused, namely,

Samir Ali, who has been languishing in jail hazot in connection with Mushalpur P.S. Case No. 95/2023, under Section 379 of the IPC read with Sections 120(B)/401/413/420 of the IPC, since 19.11.2023.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Tapan Lahkar on 27.10.2023. The essence of allegation made in the FIR dated 27.10.2023 is that on 23.10.2023 at about 12 noon, he went to withdraw a sum of Rs. 10,000/- from the SBI ATM, situated near Mushalpur SBI Branch, but he could not succeed and then he had handed over the ATM card to one of the two boys who were present there. But, he also could not withdraw the amount and returned the ATM card to him. Thereafter on 06.11.2023, he went to the SBI Branch at Mushalpur to withdraw a sum of Rs. 10,000/- and then he was told that he is not the owner of that card. Thereafter, he checked the balance and found that a sum of Rs. 49,000/- had been withdrawn from his account.

4. Mr. M.U. Mondal, learned counsel for the accused submits that the accused was arrested on 19.11.2023, and since then he has been languishing in jail hazot for last 45 days and that his name is not there in the FIR and that he has been arrested on suspicion and therefore, it is contended that the petition be allowed.

5. On the other hand, Mr. B.B. Gogoi, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused and that the investigation is still going on, and therefore, Mr. Gogoi has opposed 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 Mr. Gogoi, learned Addl.

Public Prosecutor.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the accused including the CCTV footage of the Mushalpur SBI ATM. Further it appears that the investigation is still going on and enlarging the accused on bail at this stage will hamper the investigation.

8. Accordingly, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused and accordingly, the bail application stands dismissed at this stage.

9. Case diary may be returned.

JUDGE

Comparing Assistant