

GAHC010285872023



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

Case No. : Bail Appln./4565/2023

AKTAR HOSEN
S/O MD. HAMJA SEIKH
R/O VILL- PT.II, KALAPAKONI
P.O. AND P.S. DHUBRI
DIST. DHUBRI, ASSAM
PIN-783301

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. R.J. Baruah, learned Addl. Public Prosecutor for the State respondents.

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

namely, Aktar Hosen, who has been languishing in jail hazot in connection with Mushalpur P.S. Case No. 91/2023, under Section 379 of the IPC read with Sections 120(B)/401/413/420 of the IPC.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Mina Munda on 27.10.2023. The essence of allegation made in the FIR dated 27.10.2023 is that on 21.10.2023 at about 12 noon, she went to withdraw a sum of Rs. 1000/- from the SBI ATM, situated near Mushalpur SBI Branch, but she could not withdraw the amount and she had handed over the ATM card to one of the three persons who were standing there. But, he also could not succeed and returned the ATM card to her. Thereafter on 23.10.2023, she went to the CSP, situated at Doomoni, to withdraw a sum of Rs. 1000/- and then the person present in the CSP stated that the card she possess is not belonging to her. Thereafter, she checked the balance and found that a sum of Rs. 11,500/- had been withdrawn by some culprits.

4. Mr. M.U. Mondal, learned counsel for the accused submits that the accused was arrested on 17.11.2023 and since then he has been languishing in jail hazot for last 47 days and that his name is not there in the FIR and he has been arrested only on suspicion and therefore, it is contended that the petition be allowed.

5. On the other hand, Mr. R.J. Baruah, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials including the CCTV footage of the ATM and that he is a habitual offender and therefore Mr. Baruah 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. R.J. Baruah, learned Addl. Public Prosecutor.

7. It appears that the I.O. has collected sufficient incriminating materials against the accused and 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