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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (DB) 78 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.01.2023 in connection with Haldibari Police Station Case No. 154 of 2022 dated 25.05.2022 under Sections 379/411/414/409/420/120B of the Indian Penal Code.

In the matter of : Mahesh Tamang

... petitioner

Mr. Sudip Guha

...for the petitioner

Mr. Saikat Chatterjee,
Mr. Chattu Roy

.....for the State.

Heard learned counsel for the parties.

Learned counsel appearing for the petitioner contends that the ingredients of Section 409 of the Indian Penal Code, which has also been alleged against the petitioner, do not lie as the money in question was not public money. That apart, it is submitted that the petitioner is already in custody for about 260 days. It is also submitted that five co-accused persons are absconding, which negates any chance of immediate commencement of trial.

Learned counsel appearing for the State opposes the prayer of bail and submits that at least 22 other ATM cards of different persons were seized from the possession of the

petitioner. It is further submitted that the petitioner is a habitual offender and had been hauled up in similar cases previously.

Learned counsel for the petitioner, in reply, submits that the petitioner is on bail in connection with the other cases.

Keeping in view the apprehension of repeat offence by the petitioner in the event he is enlarged on bail, particularly in view of the fact that several others' ATM cards were also seized from the possession of the petitioner, we are not inclined to grant bail to the petitioner at this stage.

Accordingly, CRM (DB) 78 of 2023 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)