

GAHC010064712024



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

Case No. : Bail Appln./926/2024

FAYAZ AHMED @ FOYAJ AHMED LASKAR
S/O ABDUL KHALIL LASKAR
VILL- BOKULAGURI
P.O. BARAPUTIA
P.S. KAMPUR
DIST. NAGAON, ASSAM,
PIN-782428

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M K HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

18.04.2024

Heard Mr. M.K. Hussain, learned counsel for the accused and also heard Mr. B.

Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by accused, namely, Fayaz Ahmed @ Foyaj Ahmed Laskar, who has been languishing in jail hazot since 22.02.2024, in connection with Pathsala P.S. Case No.81/2023, under Section 379 IPC, read with Section 66(C)/66(D) of the I.T. Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Kanak Ch. Das, on 26.10.2023. The essence of allegation made in the aforesaid FIR is that he has been maintaining one account in the State Bank of India, Pathsala Branch and since 12.10.2023 till 23.10.2023 some unknown persons have withdrawn a sum of ₹ 3,41,700/- from his account.

4. Mr. Hussain, learned counsel for the accused, submits that the accused was arrested on 22.02.2024 and since then he has been languishing in jail hazot for last 56 days and that some of the co-accused have already been granted bail by this Court and the present accused is also stand in the same footing and therefore, it is contended to allow this petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has vehemently opposed the petition on the ground that the I.O. has collected sufficient incriminating materials against the accused and he has given his Aadhaar card to some other co-accused and with the help of said Aadhaar card they have prepared one Jio SIM card and thereafter, withdrawn money from the bank and further, Mr. Sarma submits that the investigation is going on and therefore, it is contended to dismiss the petition.

6. Having heard the submissions 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. Sarma, learned Additional P.P.

7. It appears that the I.O. has collected sufficient incriminating materials against the present accused and the investigation is still going on. But, it appears that the accused has been languishing in jail hazot for last 56 days and some of the co-accused have already been enlarged on bail by this Court, vide order dated 02.02.2024 in Bail Apnl. No.144/2024 (Annexure-C).

8. Having considered above, specially the period of detention as well as the progress of investigation, further custodial detention of the accused seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition.

9. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Bajali, Pathsala, the accused, namely, Fayaz Ahmed @ Foyaj Ahmed Laskar, shall be enlarged on bail.

10. In terms of above, this bail application stands disposed of. Case diary be returned.

**Sd/- Robin Phukan
JUDGE**

Comparing Assistant